

WSR 24-06-056
EMERGENCY RULES
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Long-Term Support Administration)

[Filed March 4, 2024, 7:19 a.m., effective March 4, 2024, 7:19 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The department of social and health services is planning to amend WAC 388-71-0523, 388-71-0836, 388-71-0837, 388-71-0839, 388-71-0875, 388-71-0880, 388-71-0888, 388-71-0893, 388-71-0975, 388-71-0977, 388-71-0980, 388-71-1001, 388-112A-0010, 388-112A-0110, 388-112A-0115, 388-112A-0130, 388-115-0503, 388-115-0505, 388-115-0520, 388-115-0523, 388-115-0540, 388-115-05410; and repeal WAC 388-112A-0130 in response and in compliance to E2SHB 1694 (chapter 424, Laws of 2023). Other changes include the numerical representation, consistency, and inclusive language. Permanent rule making is in process. This emergency extension is necessary to keep the language in place until the CR-103P, filed as WSR 24-05-003, will not be effective before the current emergency rules expire on March 7, 2024. When effective, the permanent rules, filed as WSR 24-05-003, supersede this emergency.

Citation of Rules Affected by this Order: Repealing WAC 388-112A-0130; and amending WAC 388-71-0523, 388-71-0836, 388-71-0837, 388-71-0839, 388-71-0875, 388-71-0880, 388-71-0888, 388-71-0893, 388-71-0975, 388-71-0977, 388-71-0980, 388-71-1001, 388-112A-0010, 388-112A-0110, 388-112A-0115, 388-112A-0130, 388-115-0503, 388-115-0505, 388-115-0520, 388-115-0523, 388-115-0540, and 388-115-05410.

Statutory Authority for Adoption: RCW 18.88B.021, 18.88B.041, 18.88B.060, 74.08.090, 74.39A.076, and 74.39A.341.

Other Authority: RCW 18.88B.010, 18.88B.021, 18.88B.041, 74.39A.076, and 74.39A.341.

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: Extension of emergency rules are necessary because permanent rules will not be effective by the date the current emergency rules expire on March 7, 2024.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 22, Repealed 1.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: March 4, 2024.

Katherine I. Vasquez
Rules Coordinator

SHS-4990.8

AMENDATORY SECTION (Amending WSR 22-19-048, filed 9/15/22, effective 10/16/22)

WAC 388-71-0523 What are the training and certification requirements for individual providers and home care agency long-term care workers? The following chart provides a summary of the training and certification requirements for individual providers and home care agency long-term care workers (~~(, including)~~). This includes criteria for those providers working limited hours for one person, caring only for one's child, (~~(or)~~) parent, sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, (~~(and)~~) providing respite services (~~(only)~~), or providing approved services only for a spouse or registered domestic partner and funded through the United States department of veterans' affairs home and community-based programs:

Who	Status	Orientation training	Safety training	Basic training	Continuing education	Required credential
(1) An individual provider or home care agency long-term care worker who is a licensed, certified health care professional in good standing through the Washington state department of health, or an individual provider or home care agency long-term care worker with special education training who meets the criteria in RCW 18.88B.041 (1)(a)(i)(A).	ARNP, RN, LPN, HCA, CN-A, or other professionals listed in WAC 388-71-0839.	Not required.	Not required.	Not required.	Not required of ARNPs, RNs, or LPNs in chapter 388-71 WAC. Required 12 hours under WAC 388-71-0990 and 388-71-0991 of NA-Cs, HCAs, and other professionals listed in WAC 388-71-0839, such as an individual with special education training with an endorsement granted by the superintendent of public instruction under RCW 28A.300.010. <u>For NA-C and those with special education training 12 hours is required for each year worked in long-term care.</u>	((Not required. Must maintain in good standing the certification or credential of other professional role listed in WAC 388-71-0839)) <u>Required under chapter 246-980 WAC.</u>
(2) An individual provider or home care agency long-term care worker with specific employment history.	A long-term care worker employed at some point between January 1, 2011, and January 6, 2012, and has completed the basic training requirements in effect on the date of ((his or her)) hire. WAC 388-71-0839.	Not required.	Not required.	Not required.	<u>12 hours is required for each year worked in long-term care ((Required, 12 hours))</u> under WAC 388-71-0990 and 388-71-0991.	Not required.

Who	Status	Orientation training	Safety training	Basic training	Continuing education	Required credential
(3) An individual provider or home care agency long-term care worker.	Hired by a licensed home care agency or the consumer directed employer to provide personal care service as defined in WAC 388-71-0836 and is not exempt under subsection (1) or (2) of this section.	Required. Two hours under WAC 388-71-0860.	Required. Three hours under WAC 388-71-0860.	Required. 70 hours under WAC 388-71-0870 and 388-71-0875.	Required. 12 hours under WAC 388-71-0990 and 388-71-0991.	((Home care aide certification required under WAC 388-71-0975. Home care aide certification required under WAC 388-71-0975 within 200 days of the date of hire as provided in WAC 246-980-050 (unless the department of health issues a provisional certification under WAC 246-980-065))) Required under chapter 246-980 WAC.
(4) An individual provider who works limited hours for one person.	((Contracted individual)) An individual provider employed by the consumer directed employer providing 20 hours or less of nonrespite care for one person per calendar month and does not meet the criteria in subsection (1) or (2) of this section.	Required. Two hours under WAC 388-71-0860.	Required. Three hours under WAC 388-71-0860.	Required. 30 hours under WAC 388-71-0880.	Not required.	Not required.

Who	Status	Orientation training	Safety training	Basic training	Continuing education	Required credential
<p>[(5)] An individual who provides ((only)) respite services and works 300 hours or less in any calendar year.</p>	<p>(a) An individual providing ((only)) respite care who ((and)) works no more than 300 hours in the calendar year, is not exempt in subsection (1) or (2) of this section, and does not meet criteria in subsection ((7)) (6) of this section. (b) Individual providing ((only)) respite services for individuals with developmental disabilities that receive services under Title 71A RCW and for individuals that receive services under chapter 74.39A, that is working 300 hours or less in any calendar year, and that is not exempt in subsection (1) or (2) of this section.</p>	<p>Required. Two hours under WAC 388-71-0860.</p>	<p>Required. Three hours under WAC 388-71-0860.</p>	<p>Required. ((Seven)) <u>Nine</u> hours under WAC 388-71-0890.</p>	<p>Not required.</p>	<p>Not required.</p>
<p>(6) An individual provider caring only for ((his or her)) <u>the provider's biological, step, or adoptive adult child.</u></p>	<p>An individual providing care only for ((his or her)) <u>the provider's adult child that receives services through the developmental disabilities administration and not exempt under subsection (1) or (2) of this section.</u></p>	<p>Required. Two hours per WAC 388-71-0895.</p>	<p>Required. Three hours under WAC 388-71-0895.</p>	<p>Required. Seven hours under WAC 388-71-0890.</p>	<p>Not required.</p>	<p>Not required.</p>

Who	Status	Orientation training	Safety training	Basic training	Continuing education	Required credential
(7) An individual provider caring only for (his or her) the provider's biological, step, or adoptive child, or parent.	An individual providing care <u>only</u> to (his or her) the individual's child or parent, who is not exempt in subsection (1) or (2) of this section, and does not meet criteria in subsection (6) of this section.	Required. Two hours under WAC 388-71-0860.	Required. Three hours under WAC 388-71-0860.	Required. 30 hours under WAC 388-71-0880.	(Required for an) <u>12 hours is required for each year worked in long-term care for an individual provider caring only for (his or her) the provider's biological, step, or adoptive (child or) parent under WAC 388-71-0990 and 388-71-0991.</u> Not required for an individual provider caring only for (his or her) the provider's biological, step, or adoptive child under WAC 388-71-1001.	Not required.
(8) An individual provider caring only for the provider's sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership.	An individual providing care <u>only</u> for the individual provider's sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership, who is not exempt in subsection (1) or (2) of this section, and does not meet the criteria in subsection (6) of this section.	Required. Two hours under WAC 388-71-0860.	Required. Three hours under WAC 388-71-0860.	Required. 30 hours under WAC 388-71-0880.	Not required.	Not required.
(9) A long-term care worker providing approved services only for a spouse or registered domestic partner and funded through the United States department of veterans' affairs home and community-based programs.	A long-term care worker providing approved services <u>only</u> for a spouse or registered domestic partner and funded through the United States department of veterans' affairs home and community-based programs who is not exempt in subsection (1) or (2) of this section.	Required. Two hours under WAC 388-71-0860.	Required. Three hours under WAC 388-71-0860.	Required. 30 hours under WAC 388-71-0880.	12 hours is required for each year worked in long-term care under WAC 388-71-0990 and 388-71-0991.	Not required.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

AMENDATORY SECTION (Amending WSR 22-10-024, filed 4/25/22, effective 5/26/22)

WAC 388-71-0836 What definitions apply to the long-term care worker training requirements? The following definitions apply to the long-term care worker training requirements:

(1) **"Activities of daily living"** means self-care abilities related to personal care such as bathing, eating, using the toilet, medication assistance, dressing, and transfer. Instrumental activities of daily living may also be used to assess a person's functional abilities in the home and the community such as cooking, shopping, house cleaning, doing laundry, working, and managing personal finances.

(2) **"Care team"** means the client and everyone involved in (~~his or her~~) the individual's care. The care team may include family, friends, doctors, nurses, long-term care workers, social workers, and case managers. The role of the care team is to support the client's well-being. However, the client directs the care plan.

(3) **"Challenge test"** means a competency test taken for specialty training without first taking the class for which the test is designed and may only be used when basic training is not required.

(4) **"Client"** means an individual receiving in-home services.

(5) **"Competency"** means the integrated knowledge, skills, or behavior expected of a long-term care worker after completing training in a required topic area. Learning objectives are associated with each competency.

(6) **"Competency testing"** means evaluating a student to determine if (~~he or she~~) the student can demonstrate the required level of skill, knowledge, and behavior with respect to the identified learning objectives of a particular course. The department only requires competency testing for nurse delegation core and specialized diabetes training, and the specialty and expanded specialty trainings. Training programs may integrate competency testing within (~~their~~) each program's approved curricula.

(7) **"Core basic training"** means the portion of the 70-hour home care aide basic training that covers the core competencies and skills that long-term care workers need in order to provide personal care services efficiently and safely. The core basic training hours also includes hours devoted to student practice and demonstration of skills.

(8) **"Date of hire"** for determining time frames related to training and certification, means the (~~date of hire as described in chapter 246-980 WAC~~) first day the long-term care worker is employed by any employer.

(9) **"DDA"** refers to the developmental disabilities administration.

(10) **"Direct care worker"** means a paid individual who provides direct, personal care services to persons with disabilities or the elderly requiring long-term care (see also the definition of long-term care worker, which includes client care workers).

(11) **"Department"** or **"DSHS"** means the department of social and health services.

(12) **"Enhancement"** means additional time provided for skills practice and additional training materials or classroom activities that help a long-term care worker to thoroughly learn the course content and skills. Enhancements can include new student materials, videos or DVDs, online materials, and additional student activities.

(13) **"Expanded specialty training"** means optional curricula that provide caregivers with advanced knowledge and skills to provide person-centered care to clients or residents living with conditions other than developmental disabilities, dementia, and mental health. The optional expanded specialty training may include such topics as traumatic brain injury, diabetes care, and bariatric care. The optional expanded specialty training curricula must be DSHS developed and based on competencies and learning objectives established by the department.

(14) **"Guardian"** means an individual as defined in chapter ~~((11.88))~~ 11.130 RCW.

(15) **"Home care aide"** or **"certified home care aide"** means a long-term care worker who has obtained and maintains a home care aide certification through the department of health.

(16) **"Hybrid"** means a combination of online training and in-person, remote, or virtual classroom instruction.

(17) **"Individual provider"** or **"IP"** means a person (~~(who has contracted with the department)~~) employed by the consumer directed employer to provide personal care or respite care services to persons with functional disabilities under a medicaid state plan program, such as the medicaid personal care or community first choice programs, ~~((or))~~ under a federal medicaid waiver program, or through the veteran directed home care (VDHC) program.

(18) **"Learning objectives"** means measurable, written statements that clearly describe what a long-term care worker must minimally learn to meet each competency. Learning objectives are identified for each competency. Learning objectives provide consistent, common language and a framework for curriculum designers, the curriculum approval process, and testing. Curriculum developers have the flexibility to determine how learning objectives are met and may include additional content deemed necessary to best meet the competency in a particular setting.

(19) **"Long-term care worker"** means:

(a) All persons who provide paid, personal care services for the elderly or persons with disabilities, including but not limited to individual providers of home care services, direct care workers employed by home care agencies, providers of home care services to persons with developmental disabilities under Title 71A RCW, all direct care workers in state-licensed assisted living facilities, adult family homes, respite care providers, community residential service providers, and any other direct care staff who provide home or community-based services to the elderly or persons with functional disabilities or developmental disabilities.

(b) Long-term care workers do not include:

(i) Persons employed by the following facilities or agencies: Nursing homes subject to chapter 18.51 RCW, hospitals or other acute care settings, residential habilitation centers under chapter 71A.20 RCW, facilities certified under 42 C.F.R., Part 483, hospice agencies subject to chapter 70.127 RCW, adult day care centers; or

(ii) Persons who are not paid by the state, by a private agency, or facility licensed by the state to provide personal care services.

(20) **"Online training"** means a course taken through an automated, asynchronous learning management system or other technology that conforms to the online training standards posted on the DSHS website at <https://bit.ly/dshs-online-standards>.

(21) **"Personal care services"** means physical or verbal assistance with activities of daily living, or activities of daily living and instrumental activities of daily living that are provided to the client.

(22) **"Remote skills training"** means training conducted in a virtual classroom environment, or online when a student either demonstrates a skill live or provides a video recorded file of themselves performing a skill that is forwarded for feedback to an approved instructor or a proctor trained by an approved instructor, or both. A training program must be approved by DSHS to provide remote skills training.

(23) **"70-hour home care aide training"** means the 70 hours of required training that a new long-term care worker must complete within 120 days of hire. It has three components: Core competencies, practice of skills, and population specific topics, which may include specialty and nurse delegation training.

(24) **"Specialty training"** means curricula that meets the requirements of RCW 18.20.270 and 70.128.230 to provide basic core knowledge and skills that caregivers need to learn and understand to effectively and safely provide care to residents living with mental illness, dementia, or developmental disabilities. The specialty training curricula may be DSHS developed or DSHS approved and must be based on the competencies and learning objectives in WAC 388-112A-0430, 388-112A-0440, or 388-112A-0450.

(25) **"Training entity"** means an organization, including an independent contractor, who provides or may provide training under this chapter using approved curriculum. Training entities may only deliver approved curriculum.

(26) **"Training partnership"** means a joint partnership or trust that includes the office of the governor, and the exclusive bargaining representative of individual providers under RCW 74.39A.270 with the capacity to provide training, peer mentoring, and workforce development, or other services to individual providers.

(27) **"Virtual classroom"** means a synchronous, instructor-led, remote learning environment conducted in real time that conforms to the virtual classroom standards posted on the DSHS website at <https://bit.ly/dshs-online-standards>. A training program must be approved by DSHS to provide virtual classroom instruction.

AMENDATORY SECTION (Amending WSR 23-01-022, filed 12/9/22, effective 1/9/23)

WAC 388-71-0837 How does DSHS determine a long-term care worker's date of hire and when may a long-term care worker be eligible to have the date of hire reset? (1) The department determines a long-term care worker's date of hire according to ((chapter 246-980 WAC)) the first day the long-term care worker is employed by any employer.

(2) The date of hire is specific to each long-term care worker. ((It does not change when a long-term care worker changes clients or employers unless the long-term care worker meets the criteria in WAC 388-71-0980.)) A long-term care worker, including an individual or agency provider who has worked as a long-term care worker in the past, but who did not complete the training or certification that was required at the time, and a worker who is not currently certified or eligible to reactivate an expired credential, shall receive a new date of hire when beginning work with either a new employer or returning to a former employer after prior employment has ended.

(3) This section does not apply to background check requirements under this chapter.

AMENDATORY SECTION (Amending WSR 23-01-022, filed 12/9/22, effective 1/9/23)

WAC 388-71-0839 Which long-term care workers are exempt from the 70-hour, 30-hour, nine-hour, or seven-hour basic training requirements? The following long-term care workers are exempt from the 70-hour, 30-hour, nine-hour, or seven-hour ((home care aide)) basic training requirement:

- (1) An individual employed as a long-term care worker on January 6, 2012, who complied with the basic training requirements in effect on the date of hire;
- (2) An individual previously employed as a long-term care worker who completed the basic training requirements in effect on the date of hire, and was employed as a long-term care worker at some point between January 1, 2011, and January 6, 2012;
- (3) Registered nurses, licensed practical nurses, and advanced registered nurse practitioners licensed under chapter 18.79 RCW;
- (4) Nursing assistants certified under chapter 18.88A RCW and persons in an approved training program for certified nursing assistants under chapter 18.88A RCW provided that they complete the training program within 120 days of the date of hire and the department of health has issued a nursing assistant certified credential within 200 days of the date of hire;
- (5) A home health aide who was employed by a medicare certified home health agency within the year before being hired as a long-term care worker and has met the requirements of 42 C.F.R., Sec. 484.36;
- (6) An individual with special education training who has an endorsement granted by the Washington state superintendent of public instruction as described in RCW 28A.300.010; and
- (7) A home care aide (HCA) certified under chapter 18.88B RCW.

AMENDATORY SECTION (Amending WSR 23-01-022, filed 12/9/22, effective 1/9/23)

WAC 388-71-0875 Who must complete the 70-hour basic training and by when? Unless exempt from training in WAC 388-71-0839(1) through (7), all long-term care workers must complete core and population specific competencies within 120 days of the date of hire as described in ((chapter 246-980)) WAC 388-71-0837.

AMENDATORY SECTION (Amending WSR 21-18-081, filed 8/30/21, effective 10/1/21)

WAC 388-71-0880 Who must ((take)) complete the ((thirty)) 30-hour basic training and by when must it be completed? Unless exempt from the basic training requirements under WAC 388-71-0839 (1) through (7), the following individuals must ((take)) complete the ((thirty)) 30-hour basic training under WAC 388-71-0885 within 120 days of the date of hire as described in WAC 388-71-0837:

- (1) An individual provider who only cares for that provider's: ((i)) (a) ((Cares for his or her)) biological, step, or adoptive child, or parent; or

(b) sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership; or

(2) A long-term care worker providing approved services only for a spouse or registered domestic partner and funded through the United States department of veterans' affairs home and community-based programs; or

~~((ii))~~ (3) ((Provides)) A long-term care worker who provides no more than ((twenty)) 20 hours of nonrespite care for one person who is not the individual provider's:

(a) biological, step, or adoptive child, or parent((-)); or

(b) sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership.

~~((2) An individual who provides only respite services to clients not covered under title 71A RCW, works three hundred hours or less in any calendar year and is not exempt from basic training under WAC 388-71-0839.))~~

AMENDATORY SECTION (Amending WSR 21-18-081, filed 8/30/21, effective 10/1/21)

WAC 388-71-0888 When do the ((seventy)) 70-hour basic training and certification requirements apply to an individual whose required basic training was previously less than ((seventy)) 70 hours? (1) The following individual providers ((eligible for limited training under WAC 388-71-0880 and 388-71-0893, who begin to work for a second client who is not)) must complete 70 hours of basic training and become a certified home care aide under WAC 388-71-0523:

(a) Individual providers who previously provided no more than 20 hours of nonrespite care in any calendar month for one person who is not the provider's:

(i) ((their)) biological, step, or adoptive child or parent((r)); ((or))

(ii) sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership; or

(iii) spouse or registered domestic partner and funded through the United States department of veterans' affairs home and community-based programs;

(A) who continue to work for one unrelated client whose authorized monthly hours fluctuate above 20 hours per month; or

(B) who begin to work for a second client.

(b) Individual providers who provide respite services and worked more than 300 respite hours in any calendar year;

(c) Individual providers who begin working for an unrelated client who previously only provided personal care to the provider's:

(i) biological, step, or adoptive child, or parent; or

(ii) sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership; or

(iii) spouse or registered domestic partner and funded through the United States department of veterans' affairs home and community-based programs.

~~((continue to work for one client whose authorized monthly hours fluctuate above twenty hours per month must:~~

- ~~(a) Complete the seventy hours of basic training; and
(b) Become a certified home care aide under WAC 388-71-095.))~~

(2) When an IP described in subsection (1) of this section is required to complete the 70-hour basic training and become a certified home care aide, the IP will:

(a) Have 120 days from the date of the change to complete the 70-hour basic training and 200 days from the date of the change to become certified; and

(b) Be required to complete continuing education under WAC 388-71-0990.

~~((2) Individual providers who provide only respite services and worked more than three hundred hours in any calendar year must complete the seventy hours of basic training and become a certified home care aide.))~~

(3) For the purpose of this section, the date of the change means the date on which the IP:

(a) Began working for a client that is not the individual's:

(i) biological, step, or adoptive child, or parent; or

(ii) sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership; or

(iii) spouse or registered domestic partner receiving approved services funded through the United States department of veterans' affairs home and community-based programs.

(b) Exceeded 20 hours of work in one month; or

(c) Exceeded 300 respite hours in one calendar year.

~~((3) Individual providers who previously only provided personal care to their biological, step, or adoptive child or parent through DDA or HCS who begin working for an unrelated client must complete the seventy hour basic training and become a certified home care aide.))~~

(4) If an IP is required to or chooses to become a certified home care aide and completes the 70-hour training requirements under this section, the individual will be required to continue to comply with these requirements to maintain the credential and complete continuing education requirements even if:

(a) The monthly authorized hours are later reduced to 20 or fewer hours;

(b) The individual no longer works for more than one unrelated client; or

(c) The individual works 300 or fewer respite hours in a calendar year.

~~((4) When an IP described in subsections (1), (2), or (3) of this section is required to complete the seventy hour basic training and become a certified home care aide, the IP will:~~

~~(a) Have one hundred twenty days from the date of the change to complete the seventy hour basic training and two hundred days from the date of the change to become certified; and~~

~~(b) Be required to complete continuing education under WAC 388-71-0990.))~~

(5) The training and certification requirements for an individual that met the criteria in subsection (4) of this section does not apply if the individual returns to work only for the individual's:

(a) biological, step, or adoptive parent, or adult child,

(b) sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership; or

(c) spouse or registered domestic partner receiving approved services funded through the United States department of veterans' affairs home and community-based programs.

~~((5) For the purpose of this section, the date of the change means the date on which the IP:~~

~~(a) Began working for a client that is not his or her biological, step or adoptive child or parent;~~

~~(b) Exceeded twenty hours of work in one month; or~~

~~(c) Exceeded more than three hundred respite hours in one calendar year.~~

~~(6) If an IP is required to or chooses to become a certified home care aide and completes the seventy hour training requirements under this section, the individual will be required to continue to comply with these requirements to maintain his or her credential and complete continuing education requirements even if:~~

~~(a) The monthly authorized hours are later reduced to twenty or fewer hours;~~

~~(b) He or she no longer works for a second unrelated client; or~~

~~(c) The individual works less than three hundred respite hours in a calendar year.~~

~~(7) The training and certification requirements for an individual that met the above criteria in subsection (6) does not apply if the individual returns to work only for his or her biological, step, or adoptive parent or adult child.)~~

AMENDATORY SECTION (Amending WSR 21-18-081, filed 8/30/21, effective 10/1/21)

WAC 388-71-0893 Who must ~~((take))~~ complete the nine-hour basic training and by when must it be completed? (1) Unless exempt from the basic training requirements under WAC 388-71-0839 (1) through (7), an individual provider must ~~((take))~~ complete orientation and safety training and nine hours of training within 120 days of the date of hire as described in WAC 388-71-0837 if ~~((he or she))~~ the provider meets the following criteria:

(a) Provides ~~((only))~~ respite services for individuals with developmental disabilities receiving services under Title 71A RCW; and

(b) Works ~~((three hundred))~~ 300 hours or less of respite in any calendar year.

(2) The individual provider must complete the orientation and safety training before providing care.

(3) The training partnership identified in RCW 74.39A.360 must offer at least ~~((twelve))~~ 12 of the ~~((fourteen))~~ 14 total hours online and five of these online hours must be individually selected from elective courses.

(4) An individual must complete the nine hours basic training required under this section within ~~((one hundred twenty))~~ 120 days of the long-term care worker's date of hire.

AMENDATORY SECTION (Amending WSR 21-18-081, filed 8/30/21, effective 10/1/21)

WAC 388-71-0975 Who is required to obtain certification as a home care aide, and by when? In order to be authorized to provide department paid in-home services, all long-term care workers must obtain home care aide certification as provided in chapter 246-980 WAC unless exempt for the 70-hour basic training as described in WAC 388-71-0875.

AMENDATORY SECTION (Amending WSR 21-18-081, filed 8/30/21, effective 10/1/21)

WAC 388-71-0977 Once an individual is required to obtain certification as a home care aide, may that individual revert to exempt status? (1) If an individual is required to or chooses to become a certified home care aide and completes the ~~((seventy))~~ 70-hour training requirements under this section, the individual will be required to continue to comply with these requirements to maintain ~~((his or her))~~ the credential and complete continuing education requirements even if:

- (a) The monthly authorized hours are later reduced to ~~((twenty))~~ 20 or fewer hours;
- (b) ~~((He or she))~~ The individual no longer works for a second unrelated client; or
- (c) The individual works 300 ~~((less than three hundred))~~ respite hours or less in a calendar year.

(2) The training and certification requirements for an individual that met the ~~((above))~~ criteria in subsection (1) of this section does not apply when the individual returns to work only for ~~((his or her))~~ the individual's:

- (a) biological, step, or adoptive parent, or adult child((-)); or
- (b) sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership; or
- (c) spouse or registered domestic partner receiving approved services funded through the United States department of veterans' affairs home and community-based programs.

AMENDATORY SECTION (Amending WSR 23-01-022, filed 12/9/22, effective 1/9/23)

WAC 388-71-0980 ((May)) When may a home care agency or client employ a long-term care worker who has not completed the 70-hour basic training or certification requirements? (1) If an individual has previously worked as a long-term care worker, but did not complete the training or certification requirements under RCW 18.88B.041, 74.39A.074, and ~~((74.39A.096))~~ 74.39A.076, and this chapter, a home care agency or client must not employ the individual to work as a long-term care worker until the individual has completed the required training certification unless the date of hire has been reset as described under subsection (2) of this section.

(2) The date of hire may be reset according to ~~((chapter 246-980))~~ WAC 388-71-0837.

(3) Unless exempt from the 70-hour basic training as described in WAC 388-71-0875, individuals who meet the criteria in subsection (2) of this section are allowed a new 120 days to complete the 70-hour home care aide basic training and a new 200 days to become certified as a home care aide, if required by WAC 246-980-020.

(4) Individuals who meet the criteria in subsection (2) of this section must submit a new application and fee to the department of health.

AMENDATORY SECTION (Amending WSR 23-01-022, filed 12/9/22, effective 1/9/23)

WAC 388-71-1001 Which long-term care workers are exempt from the continuing education requirement? Continuing education is not required for any of the following:

(1) Individual providers caring only for the provider's:

(a) ((~~their~~)) biological, step, or adoptive child; or

(b) sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership.

(2) Individual providers that:

(a) Provide ~~((care to only one person and provide))~~ no more than 20 hours of nonrespite care in any calendar month to only one person who is not the provider's: ((~~or~~))

(i) biological, step, or adoptive child; or

(ii) sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership;

(b) ~~((Individual providers who only))~~ Provide respite services and work 300 hours or less of respite in any calendar year;

(3) Before January 1, 2016, a long-term care worker employed by a community residential service business; and

(4) Registered nurses, licensed practical nurses, and advanced registered nurse practitioners licensed under chapter 18.79 RCW, even if voluntarily certified as a home care aide under chapter 18.88B RCW.

AMENDATORY SECTION (Amending WSR 22-10-024, filed 4/25/22, effective 5/26/22)

WAC 388-112A-0010 What definitions apply to this chapter? The following definitions apply to this chapter:

(1) **"Activities of daily living"** means self-care abilities related to personal care such as bathing, eating, using the toilet, dressing, medication assistance, and transfer. Instrumental activities of daily living may also be used to assess a person's functional abilities in the home and the community such as cooking, shopping, house cleaning, doing laundry, working, and managing personal finances.

(2) **"Adult family home training network"** means a nonprofit organization established by the exclusive bargaining representative of adult family homes designated under RCW 41.56.026 with the capacity to provide training, workforce development, and other services to adult family homes.

(3) **"Applicant"** means:

- (a) An individual who is applying for an adult family home license;
- (b) An individual with an ownership interest in a partnership, corporation, or other entity that is applying for an adult family home license; or
- (c) An individual who is applying for an enhanced services facility license.
- (4) **"Capable caregiving training"** means the DSHS developed training curricula in dementia and mental health that will be available in three class levels. The level one series of the class in both dementia and mental health meets the requirements under RCW 18.20.270 and RCW 70.128.230 for specialty training. The level two and level three capable caregiving classes, when developed in both topics, may be completed for continuing education credits.
- (5) **"Care team"** includes the resident and everyone involved in ~~((their))~~ the individual's care. The care team may include family, friends, doctors, nurses, long-term care workers, social workers, and case managers. The role of the care team is to support the resident's well-being. However, the resident directs the service plan when able.
- (6) **"Challenge test"** means a competency test taken for specialty training without first taking the class for which the test is designed.
- (7) **"Competency"** means the integrated knowledge, skills, or behavior expected of a long-term care worker after completing the training in a required topic area. Learning objectives are associated with each competency.
- (8) **"Competency testing"** including challenge testing, evaluates a student to determine if they can demonstrate the required level of skill, knowledge, and behavior with respect to the identified learning objectives of a particular course.
- (9) **"Core basic training"** is the portion of the 70-hour home care aide basic training that covers the core competencies and skills that long-term care workers need in order to provide personal care services efficiently and safely. The core basic training hours also includes hours devoted to student practice and demonstration of skills.
- (10) **"Date of hire"** for determining time frames related to training and certification ~~((r))~~ means ~~((date of hire according to chapter 246-980 WAC))~~ the first day the long-term care worker is employed by any employer.
- (11) **"DDA"** means the developmental disabilities administration.
- (12) **"Designee"** means a person in an assisted living facility or enhanced services facility who supervises long-term care workers and is designated by an assisted living facility administrator or enhanced services facility administrator to take the trainings in this chapter required of the facility administrator. An assisted living facility or enhanced services facility administrator may have more than one designee.
- (13) **"Direct care worker"** means a paid individual who provides direct, personal care services to persons with disabilities or the elderly requiring long-term care (see also the definition of long-term care worker, which includes direct care workers).
- (14) **"Direct supervision"** means oversight by a person who has demonstrated competency in basic training and if required, specialty training, or has been exempted from the basic training requirements, and is on the premises and quickly available to the caregiver.
- (15) **"DSHS"** or **"department"** means the department of social and health services.

(16) "**Enhancement**" means additional time provided for skills practice and additional training materials or classroom activities that help a long-term care worker to thoroughly learn the course content and skills. Enhancements may include new student materials, videos or DVDs, online materials, and additional student activities.

(17) "**Entity representative**" means the individual designated by an adult family home provider who is or will be responsible for the daily operations of an adult family home.

(18) "**Expanded specialty training**" means optional curricula that provide caregivers with advanced knowledge and skills to provide person-centered care to clients or residents living with conditions other than developmental disabilities, dementia, and mental health. The optional expanded specialty training may include such topics as traumatic brain injury, diabetes care, and bariatric care. The optional expanded specialty training curricula must be DSHS developed and based on competencies and learning objectives established by the department.

(19) "**Guardian**" means an individual as defined in chapter ~~(11.88)~~ 11.130 RCW.

(20) "**Home**" means adult family homes, enhanced services facilities, and assisted living facilities.

(21) "**Home care aide certified**" or "**home care aide**" means a person who obtained and maintains a home care aide certification through the department of health.

(22) "**Hybrid**" means a combination of online training and in-person, remote, or virtual classroom instruction.

(23) "**Indirect supervision**" means oversight by a person who has demonstrated competency in basic training and if required, specialty training, or was exempted from basic training requirements, and who is quickly and easily available to the long-term care worker, but not necessarily on-site.

(24) "**Learning objectives**" means measurable, written statements that clearly describe what a long-term care worker must minimally learn to meet each competency. Learning objectives are identified for each competency. Learning objectives provide consistent, common language and a framework for curriculum designers, the curriculum approval process, and testing.

(25) "**Long-term care worker**" means:

(a) All persons who provide paid, personal care services for the elderly or persons with disabilities, including but not limited to individual providers of home care services, direct care workers employed by home care agencies, providers of home care services to persons with developmental disabilities under Title 71A RCW, all direct care workers in state-licensed assisted living facilities, adult family homes, respite care providers, community residential service providers, and any other direct care staff who provide home or community-based services to the elderly or persons with functional disabilities or developmental disabilities.

(b) Long-term care workers do not include:

(i) Persons employed by the following facilities or agencies: Nursing homes subject to chapter 18.51 RCW, hospitals or other acute care settings, residential habilitation centers under chapter 71A.20 RCW, facilities certified under 42 C.F.R., Part 483, hospice agencies subject to chapter 70.127 RCW, adult day care centers, and adult day health care centers; or

(ii) Persons who are not paid by the state, by a private agency, or facility licensed by the state to provide personal care services.

(26) **"Online training"** means a course taken through an automated, asynchronous learning management system or other technology that conforms to the online training standards posted on the DSHS website at <https://bit.ly/dshs-online-standards>.

(27) **"Personal care services"** means physical or verbal assistance with activities of daily living, or activities of daily living and instrumental activities of daily living, which is provided to meet the resident's care needs.

(28) **"Provider"** means any person or entity licensed by the department to operate an adult family home, enhanced services facility, or assisted living facility, or any person or entity certified by the department to provide instruction and support services to meet the needs of persons receiving services under Title 71A RCW.

(29) **"Remote skills training"** means training conducted in a virtual classroom environment, or online when a student either demonstrates a skill live or provides a video recorded file of themselves performing a skill that is forwarded for feedback to an approved instructor or a proctor trained by an approved instructor, or both. A training program must be approved by DSHS to provide remote skills training.

(30) **"Renewal period"** means the certification renewal period as defined in WAC 246-12-010.

(31) **"Resident"** means a person residing and receiving long-term care services at an assisted living facility, enhanced services facility, or adult family home. As applicable, "resident" also means the resident's legal guardian or other surrogate decision maker.

(32) **"Resident manager"** means a person employed or designated by the provider to manage the adult family home who meets the requirements in WAC 388-76-10000 and this chapter.

(33) **"Routine interaction"** means regular contact with residents.

(34) **"70-hour home care aide basic training"** means the 70-hours of required training that a new long-term care worker must complete within 120 days of hire. It has three components: Core competencies, practice of skills, and population specific topics, which may include specialty and nurse delegation training.

(35) **"Special needs"** means a resident has dementia consistent with WAC 388-78A-2510 for assisted living or WAC 388-76-10000 for adult family homes; mental illness consistent with WAC 388-78A-2500 for assisted living or WAC 388-76-10000 for adult family homes; or developmental disabilities consistent with WAC 388-78A-2490 for assisted living or WAC 388-76-10000 for adult family homes.

(36) **"Specialty training"** means curricula that meets the requirements of RCW 18.20.270 and 70.128.230 to provide basic core knowledge and skills that caregivers need to learn and understand to effectively and safely provide care to residents living with mental illness, dementia, or developmental disabilities. The specialty training curricula may be DSHS developed or DSHS approved and must be based on the competencies and learning objectives in WAC 388-112A-0430, ((WAC)) 388-112A-0440, or ((WAC)) 388-112A-0450.

(37) **"Training entity"** means an organization, including an independent contractor, who provides or may provide training under this chapter using approved curriculum.

(38) **"Virtual classroom"** means a synchronous, instructor-led, remote learning environment conducted in real time that conforms to the virtual classroom standards posted on the DSHS website at <https://bit.ly/dshs-online-standards>. A training program must be approved by DSHS to provide virtual classroom instruction.

AMENDATORY SECTION (Amending WSR 23-01-022, filed 12/9/22, effective 1/9/23)

WAC 388-112A-0110 May a home employ a long-term care worker who has not completed the 70-hour home care aide training or certification requirements? (1) If an individual previously worked as a long-term care worker, but did not complete the training or certification requirements under RCW 18.88B.041, 74.39A.074, 74.39A.076, and this chapter, an adult family home, enhanced services facility, or assisted living facility must not employ the individual to work as a long-term care worker until the individual has completed the required training or certification unless the date of hire has been reset as described under subsection (2) of this section.

(2) The original date of hire may be reset according to (~~chapter 246-980~~) WAC 388-112A-0115. A long-term care worker who is not currently certified or eligible to reactivate an expired credential shall receive a new date of hire when beginning work with either a new employer or returning to a former employer after prior employment has ended.

(3) Individuals who meet the criteria in subsection (2) of this section are allowed a new 120 days to complete the orientation, safety, and 70-hour home care aide basic trainings and a new 200 days to become certified as a home care aide, if required by WAC 246-980-020.

(4) Individuals who meet the criteria in subsection (2) of this section must submit (~~a new~~) an application and fee to the department of health.

AMENDATORY SECTION (Amending WSR 23-01-022, filed 12/9/22, effective 1/9/23)

WAC 388-112A-0115 How does DSHS determine a long-term care worker's date of hire and when may a long-term care worker be eligible to have the date of hire reset? (1) The department determines a long-term care worker's date of hire according to (~~chapter 246-980 WAC~~) the first day the long-term care worker is employed by any employer.

(2) The date of hire is specific to each long-term care worker. (~~It does not change when a long-term care worker changes clients or employers unless the long-term care worker meets the criteria in WAC 388-112A-0110~~) A long-term care worker, including an individual who has worked as a long-term care worker in the past, but who did not complete the training or certification that was required at the time, and a worker who is not currently certified or eligible to reactivate an expired credential, shall receive a new date of hire when beginning work with either a new employer or returning to a former employer after prior employment has ended.

(3) This section does not apply to background check requirements under this chapter.

AMENDATORY SECTION (Amending WSR 21-18-081, filed 8/30/21, effective 10/1/21)

WAC 388-115-0503 What definitions apply to WAC 388-115-0500 through 388-115-05640? (1) "Area agencies on aging (AAA)" means a

contracted entity that aging and long-term support administration (AL TSA) grants funds to in order to carry out the functions of the Older Americans Act, general-fund state programs, and to provide case management services and supports to individuals 18 and older who receive medicaid-funded LTC in ~~((their))~~ the individual's own ((homes)) home.

(2) **"Applicant"** means a person who is in the process of becoming an in-home long-term care worker.

(3) **"Negative actions"** are listed in WAC 388-113-0030.

(4) **"Background check"** means a name and date of birth check or a fingerprint-based background check, or both.

(5) **"Background check result"** is defined in WAC 388-113-0101.

(6) **"Background check central unit(())(BCCU)"** means the DSHS entity responsible for conducting background checks for the department.

(7) **"Character, competence, and suitability determination (CC&S)"** is defined in WAC 388-113-0050.

(8) **"Client"** means an individual receiving medicaid((-)) or veterans' administration funded in-home long term services from the department.

(9) **"Consumer directed employer (CDE)"** is a private entity that contracts with the department to be the legal employer of individual providers for purposes of performing administrative functions. The consumer directed employer is patterned after the agency with choice model, recognized by the federal centers for medicare and medicaid services for financial management in consumer directed programs. The entity's responsibilities are described in RCW 74.39A.515 and throughout ~~((this))~~ chapter 74.39A RCW and include:

~~((1))~~ (a) Coordination with the consumer, who is the individual provider's managing employer;

~~((2))~~ (b) Withholding, filing, and paying income and employment taxes, including workers' compensation premiums and unemployment taxes, for individual providers;

~~((3))~~ (c) Verifying an individual provider's qualifications;
and

~~((4))~~ (d) Providing other administrative and employment-related supports. The consumer directed employer is a social service agency and its employees are mandated reporters as defined in RCW 74.34.020.

(10) **"Date of hire"** for determining time frames related to training and certification means the first day the long-term care worker is employed by any employer.

(11) **"Department"** means the department of social and health services (DSHS).

(12) **"Fingerprint-based background check"** means an in-state criminal history records check through the Washington state patrol and a national criminal history records check through the Federal Bureau of Investigation.

(13) **"Individual provider (IP)"** as defined in RCW 74.39A.240 limited to individual providers employed by the consumer directed employer.

(14) **"Managing employer"** means a consumer who employs one or more individual providers and whose responsibilities include:

~~((1))~~ (a) Choosing potential individual providers and referring them to the consumer directed employer;

~~((2))~~ (b) Selecting an individual provider(s);

~~((3))~~ (c) Overseeing the day-to-day management and scheduling of the individual provider's tasks consistent with the plan of care;
and

~~((4))~~ (d) Dismissing the individual provider when desired.

(15) "Name and date of birth check" is a search, conducted by the background check central unit (BCCU), of Washington state ~~((check))~~ criminal history and negative action records using the applicant's name and date of birth.

AMENDATORY SECTION (Amending WSR 21-18-081, filed 8/30/21, effective 10/1/21)

WAC 388-115-0505 What is the client's role as managing employer of an individual provider? The client, or ~~((their))~~ the client's representative, is the managing employer and:

- (1) Has the primary responsibility to select, dismiss, assign hours, and supervise the work of one or more individual providers; and
- (2) May receive assistance from the consumer directed employer or other resources in identifying potential providers.

AMENDATORY SECTION (Amending WSR 21-18-081, filed 8/30/21, effective 10/1/21)

WAC 388-115-0520 What are the training requirements for an individual provider? An individual hired on or after January 7, 2012, must meet the training requirements described in WAC 388-71-0836 through 388-71-1006. ~~((These training requirements also apply to individual providers who were hired before January 7, 2012, if they did not complete prior training requirements within one hundred twenty days of hire and they want to be reinstated to work. These training requirements and certification if required must be met prior to reinstating these individuals to work.))~~

AMENDATORY SECTION (Amending WSR 21-18-081, filed 8/30/21, effective 10/1/21)

WAC 388-115-0523 What are the training and certification requirements for individual providers? The following chart provides a summary of the training and certification requirements for individual providers ~~((, including))~~. This includes criteria for those providers working limited hours for one person, caring only for one's child, ~~((or))~~ parent, sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, ((and)) providing respite services ((only)), or providing approved services only for a spouse or registered domestic partner and funded through the United States department of veterans' affairs home and community-based programs:

Who	Status	Orientation training	Safety training	Basic training	Continuing education ((CE))	Required credential
<p>(1) An individual provider who is a licensed, certified health care professional in good standing through the Washington state department of health, or an individual provider or home care agency long-term care worker with special education training who meets the criteria in RCW 18.88B.041 (1)(a)(i)(A).</p>	<p>ARNP, RN, LPN, HCA, NA-C, or other professionals listed in WAC 388-71-0839.</p>	<p>Not required.</p>	<p>Not required.</p>	<p>Not required.</p>	<p>Not required of ARNPs, RNs, or LPNs in chapter 388-71 WAC. Required ((twelve)) 12 hours under WAC 388-71-0990 and 388-71-0991 of NA-Cs, HCAs, and other professionals listed in WAC 388-71-0839, such as an individual with special education training with an endorsement granted by the superintendent of public instruction under RCW 28A.300.010. For NA-C and those with special education training, 12 hours is required for each year worked in long-term care.</p>	<p>((Not required. Must maintain in good standing the certification or credential or other professional role listed in WAC 388-71-0839)) Required under chapter 246-980 WAC.</p>
<p>(2) An individual provider with specific employment history.</p>	<p>A long-term care worker employed at some point between January 1, 2011, and January 6, 2012, and has completed the basic training requirements in effect on ((his or her)) the worker's date of hire. WAC 388-71-0839.</p>	<p>Not required.</p>	<p>Not required.</p>	<p>Not required.</p>	<p>((Required. Twelve)) 12 hours is required for each year worked in long-term care under WAC 388-71-0990 and 388-71-0991.</p>	<p>Not required.</p>
<p>(3) An individual provider.</p>	<p>Hired by the consumer directed employer to provide personal care service as defined in WAC 388-71-0836((g)) and is not exempt under subsection (1) or (2) of this section.</p>	<p>Required. Two hours under WAC 388-71-0860.</p>	<p>Required. Three hours under WAC 388-71-0860.</p>	<p>Required. ((Seventy)) 70 hours under WAC 388-71-0870 and 388-71-0875.</p>	<p>Required. ((Twelve)) 12 hours under WAC 388-71-0990 and 388-71-0991.</p>	<p>((Home care aide certification required under WAC 388-71-0975 within two hundred days of the date of hire as provided in WAC 246-980-050 (unless the department of health issues a provisional certification under WAC 246-980-065))) Required under chapter 246-980 WAC.</p>

Who	Status	Orientation training	Safety training	Basic training	Continuing education ((CE))	Required credential
(4) An individual provider who works limited hours for one person.	<u>An individual provider employed by the consumer directed employer</u> providing ((twenty)) <u>20</u> hours or less of <u>nonrespite</u> care for one person per calendar month (s) and does not meet the criteria in <u>subsection (1) or (2)</u> of this section.	Required. Two hours under WAC 388-71-0860.	Required. Three hours under WAC 388-71-0860.	Required. ((Thirty)) <u>30</u> hours under WAC 388-71-0880.	Not required.	Not required.
(5) An individual who provides ((only)) respite services and works ((three hundred)) <u>300</u> hours or less in any calendar year.	(a) <u>An individual providing</u> ((only)) respite care and works no more than ((three hundred)) <u>300</u> hours in the calendar year, is not exempt in subsection (1) or (2) of this section, and does not meet criteria in subsection (7) of this section. (b) <u>An individual providing</u> ((only)) respite services for individuals with developmental disabilities that receive services under Title 71A RCW and for individuals that receive services under chapter 74.39A, that is working ((three hundred)) <u>300</u> hours or less in any calendar year, and that is not exempt in subsection (1) or (2) of this section.	Required. Two hours under WAC 388-71-0860.	Required. Three hours under WAC 388-71-0860.	Required. ((Thirty)) <u>Nine</u> hours under WAC ((388-71-0880)) <u>388-71-0890</u> .	Not required.	Not required.
(6) An individual provider caring only for ((his or her)) <u>the provider's biological, step, or adoptive adult child.</u>	<u>An individual providing care only for ((his or her)) the provider's adult child that receives services through the developmental disabilities administration and not exempt under subsection (1) or (2) of this section.</u>	Required. Two hours per WAC 388-71-0895.	Required. Three hours under WAC 388-71-0895.	Required. Seven hours under WAC 388-71-0890.	Not required.	Not required.

Who	Status	Orientation training	Safety training	Basic training	Continuing education ((CE))	Required credential
<p>(7) An individual provider caring only for ((his or her)) the provider's biological, step, or adoptive child, or parent.</p>	<p>An individual providing care <u>only</u> to ((his or her)) the provider's child or parent, who is not exempt in subsection (1) or (2) of this section, and does not meet criteria in subsection (6) of this section.</p>	<p>Required. Two hours under WAC 388-71-0860.</p>	<p>Required. Three hours under WAC 388-71-0860.</p>	<p>Required. ((Thirty)) 30 hours under WAC 388-71-0880.</p>	<p>12 hours is required for each year worked in long-term care for an individual provider caring only for ((his or her)) the individual's biological, step, or adoptive parent under WAC 388-71-0990 and 388-71-0991. Not required for an individual provider caring only for ((his or her)) the individual's biological, step, or adoptive child under WAC 388-71-1001.</p>	<p>Not required.</p>
<p>(8) An individual provider caring only for the individual provider's sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership.</p>	<p>An individual providing care <u>only</u> for the individual provider's sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership, who is not exempt in subsection (1) or (2) of this section, and does not meet criteria in subsection (6) of this section.</p>	<p>Required. Two hours under WAC 388-71-0860.</p>	<p>Required. Three hours under WAC 388-71-0860.</p>	<p>Required. 30 hours under WAC 388-71-0880.</p>	<p>Not required.</p>	<p>Not required.</p>
<p>(9) A long-term care worker providing approved services only for a spouse or registered domestic partner and funded through the United States department of veterans' affairs home and community-based programs.</p>	<p>A long-term care worker providing approved services only for a spouse or registered domestic partner and funded through the United States department of veterans' affairs home and community-based programs who is not exempt in subsection (1) or (2) of this section.</p>	<p>Required. Two hours under WAC 388-71-0860.</p>	<p>Required. Three hours under WAC 388-71-0860.</p>	<p>Required. 30 hours under WAC 388-71-0880.</p>	<p>12 hours is required for each year worked in long-term care under WAC 388-71-0990 and 388-71-0991.</p>	<p>Not required.</p>

AMENDATORY SECTION (Amending WSR 21-18-081, filed 8/30/21, effective 10/1/21)

WAC 388-115-0540 When will the consumer directed employer (CDE) reject your selected individual provider? (1) The CDE will reject an individual provider who:

(a) Is the client's spouse, except in the case of an individual provider for a chore services client or when the client is receiving services under the veteran directed home care program;

(b) Is the natural, step, or adoptive parent of a minor client aged (~~seventeen~~) 17 or younger;

(c) Is the foster parent providing personal care or skills acquisition training to a child residing in (~~the~~) the individual's licensed foster home; or

(d) Does not meet the qualifications under WAC 388-115-0510.

(2) The CDE will also reject an individual provider when the CDE believes that the individual will be unable to appropriately meet the care needs of the consumer, including health and safety.

AMENDATORY SECTION (Amending WSR 21-18-081, filed 8/30/21, effective 10/1/21)

WAC 388-115-05410 What are the client's rights if the consumer directed employer rejects (~~their~~) the selection of a person to serve as (~~their~~) the client's individual provider or discontinues (~~their~~) the current individual provider's assignment? (1) The client may choose to receive services from a different individual provider or another qualified provider.

(2) The client has the right to dispute the decision under the consumer directed employer's dispute resolution process.

(3) The client does not have a right to a hearing under chapter 34.05 RCW.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 388-112A-0130 When and how may a long-term care worker be eligible to reset date of hire?

WSR 24-07-009

EMERGENCY RULES

DEPARTMENT OF AGRICULTURE

[Filed March 7, 2024, 8:46 a.m., effective March 7, 2024, 8:46 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: This rule-making order amends chapter 16-470 WAC, Quarantine—Agricultural pests, to expand the boundaries of the internal quarantine for Japanese beetle within Washington state. The quarantine prohibits the movement of regulated articles located inside the quarantine area from moving outside of it. The quarantine prevents potentially infested host material from being transported to other parts of the state, thereby limiting the spread of Japanese beetle and protecting noninfested areas from infestation.

Additionally, this rule-making order adds soil samples as a regulated article and specifies conditions governing the movement of soil samples from internal quarantined areas. It also adds a requirement that any business located in the internal quarantine area that is selling regulated articles under WAC 16-470-710 (4) or (7) must post signage developed by the department of agriculture (department) clearly stating that regulated articles purchased cannot be transported outside of the quarantine area. The rule amendment clarifies that under WAC 16-470-710(7), "cut flowers for decorative purposes" includes those flowers that are exposed to open air environments during their harvest, transportation, or trade. Lastly, the amendment adds a condition for the transport of cut flowers grown in the quarantined area to areas outside the quarantined area.

Citation of Rules Affected by this Order: New WAC 16-470-711; and amending WAC 16-470-705, 16-470-710, and 16-470-717.

Statutory Authority for Adoption: RCW 17.24.011 and 17.24.041.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Immediate amendment of the rule is necessary for the general welfare of the public and is necessary to protect the forest, agricultural, horticultural, floricultural, beekeeping, and environmental interests of this state. Japanese beetle (*Po- pillia japonica* Newman) is a highly invasive plant pest native to Japan. It has been known to cause severe damage to more than 300 species of ornamental and agricultural plants, including roses, grapes, and hops. Adult beetles damage plants by skeletonizing foliage and feeding on buds, flowers, and fruit. The larvae also damage the roots of plants, such as turf grass. Although this feeding does not always kill the plant, it weakens it and may reduce the plant's overall yield.

In 2021, the department caught 24,048 Japanese beetles in the current internal quarantine area. Throughout 2021, 2022, and 2023, the department took extensive measures to reduce the spread of the beetle, with an ultimate goal of eradicating it. Measures that have been taken include treating residential and public properties with pesticide, trapping, and establishing an internal quarantine. Despite these efforts, by the end of the 2022 trapping season, numerous Japanese beetles, which indicate a reproducing population, were caught outside of the currently established internal quarantine area. This occurred again in 2023, with beetles being caught even further outside of the

internal quarantine area than in 2022. Due to this, immediate action is needed to expand the internal Japanese beetle quarantine to reflect the area of infestation more accurately and strengthen the quarantine's protections. Further, the department believes that adding soil samples as a regulated article, requiring signage be posted for businesses selling certain regulated articles, and clarifying the requirement around cut flowers is necessary to prevent the beetles' further dissemination within this state and to protect the state's forest, agricultural, horticultural, floricultural, beekeeping, and environmental interests.

If Japanese beetle becomes permanently established throughout the state, it could severely threaten several of Washington's agricultural industries. The threat this pest poses is particularly concerning due to the area in which the detections have occurred. There are a number of farms and nurseries in close proximity to the detection sites growing plant species known to be targeted by Japanese beetle. Not only do these beetles pose a threat to the plants themselves but, if established, they have the potential to impact the availability of export markets for agricultural commodities grown in the area. Expanding the Japanese beetle internal quarantine and other proposed quarantine amendments will help prevent the spread of this invasive pest and protect Washington's agricultural industries, as well as maintain access to national and international markets.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 3, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: March 7, 2024.

Derek I. Sandison
Director

OTS-5250.1

AMENDATORY SECTION (Amending WSR 22-17-068, filed 8/15/22, effective 9/15/22)

WAC 16-470-705 Areas under quarantine. (1) Exterior: The entire states of Alabama, Arkansas, Colorado, Connecticut, Delaware, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, the District of Columbia, the Provin-

ces of Ontario and Quebec, and any other state, province, parish, or county where infestations of Japanese beetle are detected are declared to be under quarantine for Japanese beetle.

(a) The director may exempt individual counties of the states under quarantine from meeting the conditions in WAC 16-470-715 if the director determines that:

(i) The state has adopted and is enforcing restrictions on the interstate and intrastate movement of regulated articles that are equivalent to or exceed the restrictions placed on the movement of regulated articles as provided in WAC 16-470-715; and

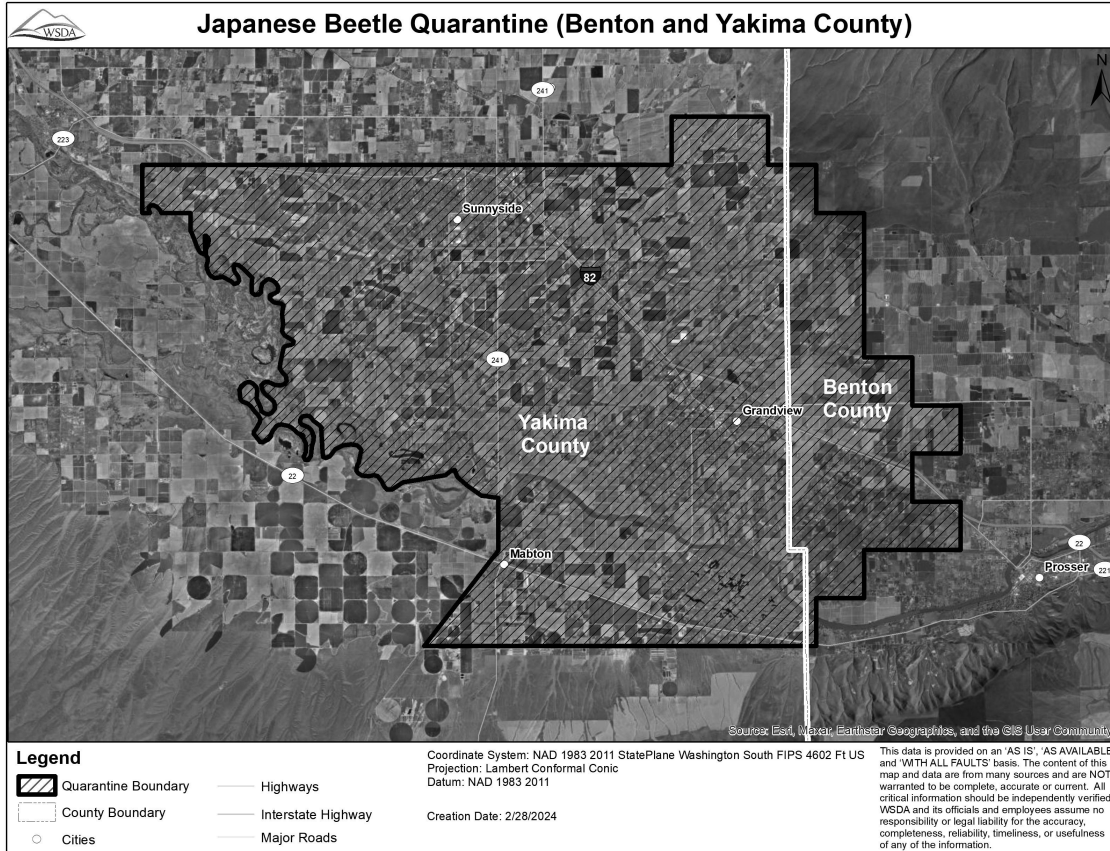
(ii) Annual surveys are conducted in such counties and the results of these surveys are negative for Japanese beetle; and

(iii) One or more neighboring counties are not subject to an unacceptable heavy Japanese beetle infestation.

(b) A plant health official of any state may request exemption of one or more counties under this subsection. The request must be in writing, and it must state the area surveyed, the survey method, personnel conducting the survey, and dates of any previous Japanese beetle infestations in that county.

(2) Interior: Within the state of Washington, those areas where infestations of Japanese beetle exist are declared to be under quarantine. These areas include the portion of Yakima and Benton counties designated as follows: Beginning within Yakima County at latitude (~~(N46°18'8" and longitude W120°0'26"; thence easterly across the Yakima-Benton County line to latitude N46°18'5" and longitude W119°51'39"; thence southerly to latitude N46°16'21" and longitude W119°51'40"; thence easterly to longitude W119°50'25"; thence southerly to latitude N46°13'44" and longitude W119°50'27"; thence westerly to latitude N46°13'44" and longitude W119°51'42"; thence southerly to latitude N46°12'00" and longitude W119°51'42"; thence westerly across the Yakima-Benton County line to latitude N46°12'3" and longitude W119°59'14"; thence northerly to latitude N46°14'39" and longitude W119°59'12"; thence westerly to longitude W120°0'28")~~) N46°19'54" and longitude W120°09'12"; thence easterly to latitude N46°19'51" and longitude W119°55'24"; thence northerly to latitude N46°20'43" and longitude W119°55'23"; thence easterly to latitude N46°20'42" and longitude W119°52'53"; thence southerly to N46°19'50" and longitude W119°52'53"; thence easterly across the Yakima-Benton County line to latitude N46°19'50"; and longitude W119°51'38" southerly to latitude N46°18'57" and longitude W119°51'39"; thence easterly to latitude N46°18'57" and longitude W119°50'24"; thence southerly to latitude N46°16'21" and longitude W119°50'25"; thence easterly to latitude N46°16'20" and longitude W119°49'10"; thence southerly to latitude N46°15'28" and longitude W119°47'56"; thence southerly to latitude N46°14'35" and longitude W119°47'56"; thence westerly to latitude N46°14'36" and longitude W119°49'12"; thence southerly to latitude N46°13'44" and longitude W119°49'12"; thence easterly to N46°13'43" and longitude W119°47'57"; thence southerly to latitude N46°12'51" and longitude W119°47'58"; thence westerly to latitude N46°12'52" and longitude W119°50'28"; thence southerly to latitude N46°11'60" and longitude W119°50'29"; thence westerly to latitude N46°12'00" and longitude W119°51'44"; thence southerly to latitude N46°11'08" and longitude W119°51'44"; thence westerly to latitude N46°11'11" and longitude W120°01'55"; thence northerly and easterly along the Yakama Nation Reservation boundary line; thence northerly and turning westerly along the Yakama Nation Reservation boundary to latitude N46°18'42" and longitude

W120°07'57"; then northerly to latitude N46°19'02" and longitude W120°07'57"; then westerly to latitude N46°19'02" and longitude W120°08'42"; thence northerly and westerly and turning southerly along the Yakama Nation Reservation boundary to latitude N46°19'02" and longitude W120°09'00"; thence westerly to latitude N46°19'02" and longitude W120°09'12"; thence northerly to the point of beginning.



AMENDATORY SECTION (Amending WSR 22-17-068, filed 8/15/22, effective 9/15/22)

WAC 16-470-710 Regulated articles. The following are declared to be hosts or possible carriers of Japanese beetle and are regulated articles under the Japanese beetle quarantine:

- (1) The upper eight inches of topsoil containing vegetative material from all properties including, but not limited to, residential, agricultural, and commercial properties (including construction sites);
- (2) Humus and compost (except when produced commercially), ((and)) growing media (except when commercially packaged), and soil samples;
- (3) Yard debris, meaning plant material commonly created in the course of maintaining yards and gardens and through horticulture, gardening, landscaping, or similar activities. Yard debris includes, but is not limited to, grass clippings, leaves, branches, brush, weeds, flowers, roots, windfall fruit, and vegetable garden debris;

- (4) Plants for planting and propagation, except when dormant and bareroot and free from soil or growing media, including:
- (a) All plants with roots;
 - (b) Plant crowns or roots;
 - (c) Bulbs;
 - (d) Corms;
 - (e) Tubers; and
 - (f) Rhizomes;
- (5) Turfgrass (sod);
- (6) Hop bines and unshucked corn ears harvested during the Japanese beetle adult flight season (May 15th through October 15th);
- (7) Cut flowers for decorative purposes, including those exposed to open air environments during their harvest, transportation, or trade; and
- (8) Any other plant, plant part, article, or means of conveyance when it is determined by the director to present a hazard of spreading live Japanese beetle due to either infestation, or exposure to infestation.

NEW SECTION

WAC 16-470-711 Signage requirements. Any business selling regulated articles under WAC 16-470-710 (4) or (7) which is located within the interior quarantine area (see WAC 16-470-705(2)) must post signage which is clearly visible at all business entrances, as well as points of sale and aisles in areas where these regulated articles are being sold. Businesses must use signage developed by or approved by the department, which must clearly state that regulated articles purchased cannot be transported outside of the quarantine area. Signs may be found on the department's website at <http://agr.wa.gov/beetles> and must be a minimum of 8.5" x 11" in size.

AMENDATORY SECTION (Amending WSR 22-17-068, filed 8/15/22, effective 9/15/22)

WAC 16-470-717 Conditions governing the movement of regulated articles from internal quarantined areas. Regulated articles within the state of Washington quarantined areas are prohibited from moving outside the quarantined area (from all properties, including commercial and private properties), except as provided for below:

(1) The upper eight inches of topsoil containing vegetative material from all properties; humus and compost (except when produced commercially), ~~((and))~~ growing media (except when commercially packaged), and soil samples, may be allowed to move from the quarantine area if they are first treated by one of the following methods. Treatments must be monitored by the department for compliance.

(a) Steam heated to a temperature of 140 degrees Fahrenheit for one hour, to kill all life stages of Japanese beetle;

(b) Soil samples may be transported to a laboratory for testing outside of the quarantine area if they are securely double bagged and clearly labeled with the following statement, "This soil sample originates from a Japanese beetle quarantine area. Sample must either be securely double bagged prior to disposal or incinerated." Laboratories

located within Washington state that are receiving soil samples originating from the quarantine area must either securely double bag the samples prior to disposal or incinerate the samples.

(c) Other treatments determined to be effective at eradicating Japanese beetle and approved in writing by the director.

(2) Yard debris may be allowed to move from the quarantine area if it is first treated by one of the following methods. Treatments must be monitored by the department for compliance.

(a) Steam heated to a temperature of 140 degrees Fahrenheit for one hour, to kill all life stages of Japanese beetle;

(b) When consisting solely of woody materials containing no soil, yard debris may be chipped to a screen size of one inch in two dimensions or smaller during the Japanese beetle adult flight season (May 15th through October 15th). Woody material containing no soil can be moved outside of the Japanese beetle adult flight season without chipping;

(c) Another treatment determined to be effective at eradicating Japanese beetle and approved in writing by the director.

(3) Plants for planting and propagation (except when dormant and bareroot and free from soil or growing media), all plants with roots, plant crowns or roots, bulbs, corms, tubers and rhizomes, and turf-grass (sod) may be allowed to move from the quarantine area if each shipment complies with one of the treatment or inspection requirements detailed under (a) through (f) of this subsection. Before the shipment moves outside the quarantined area, the shipment must be approved by the department. Approval will be documented by the issuance of a certificate of treatment or inspection when the department determines that the shipment is in compliance with the treatment or inspection requirements. The certificate must accompany the shipment while the shipment is in transit. Treated plants must be safeguarded from reinfestation prior to shipping. Plants shipped dormant and bareroot with no soil or growing media attached are exempt from these requirements, and should be identified as bareroot on shipping documents.

(a) Production in an approved Japanese beetle free greenhouse/screenhouse. All the following criteria apply to be approved as a Japanese beetle free greenhouse/screenhouse. All media must be sterilized and free of soil. All planting stock must be free of soil (bareroot) before planting into the approved medium. The potted plants must be maintained within the greenhouse/screenhouse during the entire adult flight period (May 15th through October 15th). During the adult flight period, the greenhouse/screenhouse must be made secure so that adult Japanese beetles cannot enter. Such security measures must be approved by the department. No Japanese beetle contaminated material shall be allowed into the secured area at any time. The greenhouse/screenhouse will be officially inspected by the department for the presence of all life stages of Japanese beetle and must be specifically approved as a secure area. The plants and their growing medium must be appropriately protected from subsequent infestation while being stored, packed, and shipped. Certified greenhouse/screenhouse nursery stock may not be transported into or through any infested areas unless identity is preserved and adequate safeguards are applied to prevent possible infestation. Each greenhouse/screenhouse operation must be approved by the department as having met and maintained the above criteria. The certificate accompanying the plants shall bear the following additional declaration: "The rooted plants (or crowns) were produced in an approved Japanese beetle free greenhouse or screenhouse and were grown in sterile, soilless media."

(b) Production during a pest free window. The entire rooted plant production cycle (planting, growth, harvest, and shipping) will be completed within a pest free window (October 16th through May 14th), in clean containers with sterilized and soilless growing medium, and shipment will occur outside the adult Japanese beetle flight period (May 15th through October 15th). The accompanying phytosanitary certificate shall bear the following additional declaration: "These plants were produced outside the Japanese beetle flight season and were grown in sterile, soilless media."

(c) Application of approved regulatory treatments. All treatments will be performed under direct supervision of the department or under a compliance agreement. Treatments and procedures under a compliance agreement will be monitored throughout the season. State phytosanitary certificates listing and verifying the treatment used must accompany the shipment. Note that not all treatments or methods approved in the U.S. Domestic Japanese Beetle Harmonization Plan are acceptable for use within Washington state. The phytosanitary certificate shall bear the following additional declaration: "The rooted plants are in soilless media and were treated to control *Popillia japonica* according to the criteria for shipment to Category 1 states as provided in the U.S. Domestic Japanese Beetle Harmonization Plan and Washington state's Japanese beetle quarantine."

(d) Dip treatment - Not an approved treatment.

(e) Drench treatments - Container plants only. Not approved for ornamental grasses or sedges. Not approved for field potted plants. Potting media used must be sterile and soilless, containers must be clean. Only containerized nursery stock with rootballs 12 inches in diameter or smaller and free from field soil are eligible. This is a prophylactic treatment protocol targeting eggs and early first instar larvae. If the containers are exposed to a second flight season, they must be retreated with an approved insecticide. Chemicals approved for drench treatments of container plants under this protocol can be found in the Japanese Beetle National Harmonization Plan for shipping to a Category 1 state, and must be labeled for use in Washington state.

(f) Media (granule) incorporation - Container plants only. Not approved for ornamental grasses or sedges. Only containerized nursery stock with rootballs 12 inches in diameter or smaller, planted in approved growing media, and free from field soil are eligible. Plants grown in field soil and then potted into soilless container substrates are not eligible for certification using this protocol, unless all field soil is removed from the roots so plants are bareroot at the time of potting. All pesticides used for media incorporation must be mixed thoroughly into the media before potting and plants should be watered at least two times following media incorporation before shipment can begin. Approved growing media used must be free from soil and consist of synthetic or other substances (other than soil) used singly or in combinations. Examples of approved growing media include conifer bark, hardwood bark, expanded or baked clay pellets, expanded polystyrene beads, floral foam, ground coconut husk, ground cocoa pods, ground coffee hulls, ground rice husk, peat, perlite, pumice, recycled paper, rock wool, sawdust, sphagnum, styrofoam, synthetic sponge, vermiculite, and volcanic ash or cinder. The media shall contain only substances that were not used previously for growing plants or other agricultural purposes. It must be free of plant pests, sand, and related matter, and safeguarded in such a manner as to prevent the introduction of all life stages of Japanese beetle to the media. The granules must be incorporated into the media before potting. Plants being

stepped up into treated potting media must first have undergone an approved drench treatment to eliminate any untreated volume of potting medium. This treatment protocol targets eggs and early first instar larvae and allows for certification of plants that have been exposed to only one flight season after application. If the containers are to be exposed to a second flight season, they must be repotted with a granular incorporated mix or retreated using one of the approved drench treatments. Chemicals approved for media (granule) incorporation for container plants under this protocol can be found in the Japanese Beetle National Harmonization Plan for shipping to a Category 1 state, and must be labeled for use in Washington state.

(4) Hop vines and unshucked corn ears: Fields where hops or corn (intended to be shipped unshucked) are planted must be trapped and monitored by the department and found free of Japanese beetle for the entire adult flight period (May 15th through October 15th), or from the date of planting up to the date of harvest if both dates are within the flight period. Fields that are not sufficiently trapped will not be considered free from Japanese beetle. If the field is found free of Japanese beetle by the department, vines and unshucked corn ears may be moved outside the quarantined area. If the department determines there is evidence of Japanese beetle presence, vines and unshucked corn ears must be treated prior to harvest or movement by a method approved by the director in advance. All shipments of hop vines and unshucked corn ears to areas outside the quarantined area must be accompanied by a compliance document issued by the department stating the field of origin and destination addresses. If a shipment is found to contain Japanese beetles, any further shipments from that field must be in vehicles sufficiently closed/covered to prevent reinfestation after treatment.

(5) Cut flowers for decorative purposes: All shipments of cut flowers grown in the quarantined area, to areas outside the quarantined area must be accompanied by a compliance document issued by the department stating the field of origin and destination address. If a shipment is found to contain Japanese beetles, any further shipments from that field must be in vehicles sufficiently closed/covered to prevent reinfestation after treatment.

WSR 24-07-019

EMERGENCY RULES

DEPARTMENT OF HEALTH

(Washington Medical Commission)

[Filed March 8, 2024, 11:48 a.m., effective March 8, 2024, 11:48 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Removing postgraduate medical training barriers to physician licensing. The Washington medical commission (commission) is extending its emergency rule that amends WAC 246-919-330 to eliminate the outdated requirement for consecutive years of training in no more than two programs. This change will remove a barrier for qualified applicants to obtain a physician license.

Due to the practitioner shortage, multiple pathways to board certification eligibility have been opened by the University of Washington (UW), the Accreditation Council for Graduate Medical Education (ACGME), and the American Board of Medical Specialties (ABMS). Multiple ABMS boards have programs that specifically target international medical graduates and place them in four-year training programs, with only years one and three ACGME accredited. The outcome of these programs would be physicians who are ineligible for a license through the commission, despite four years of postgraduate training through the UW.

Separately and recently, applications have come through where the physician has six years of postgraduate training from their efforts to become dually licensed as a physician and a dentist. This clause has resulted in denial of those applications since parts of the training are accredited under ACGME and the rest under the Commission on Dental Accreditation (CODA), the dental profession equivalent of ACGME.

This rule continues the initial emergency rule filed on July 13, 2023, under WSR 23-15-056, and the second emergency rule filed on November 9, 2023, under WSR 23-23-071. The commission will continue this emergency rule until the post graduate medical training standards are adopted through the permanent rule-making process.

Citation of Rules Affected by this Order: Amending WAC 246-919-330.

Statutory Authority for Adoption: RCW 18.71.017 and 18.130.050.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The continuation of this emergency rule and the immediate amendment of WAC 246-919-330 is necessary for the preservation of public health, safety, and general welfare. Continued demand for health care professionals, especially qualified physicians, makes it essential that qualified applicants are able to obtain a license. This action will result in increasing the quantity of health care professionals able to respond to current and ongoing staffing demands. Observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to protecting immediate public interests. The commission has begun rule making under a CR-101 filed on August 23, 2023, under WSR 23-18-005, to consider permanently adopting these amendments.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0,

Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: March 8, 2024.

Kyle Karinen
Executive Director
Washington Medical Commission

OTS-4663.1

AMENDATORY SECTION (Amending WSR 20-22-003, filed 10/21/20, effective 11/21/20)

WAC 246-919-330 Postgraduate medical training. (1) Postgraduate medical training means clinical training approved by the commission in general medicine or surgery, or a specialty or subspecialty in the field of medicine or surgery as recognized by the American Board of Medical Specialties listed in the 2017-2018 ABMS Board Certification Report and new specialties or subspecialties approved by the commission.

(2) The commission approves only the following postgraduate clinical training courses:

(a) Programs accredited by the Accreditation Council for Graduate Medical Education (ACGME) at the time of residency.

(b) Programs accredited by the Royal College of Physicians and Surgeons of Canada (RCPSC) or the College of Family Physicians of Canada (CFPC), or programs accredited by the RCPSC or CFPC at the time of residency.

(3) Postgraduate medical training includes, but is not limited to, internships, residencies and medical or surgical fellowships.

(4) A physician must complete two (~~consecutive~~) years of postgraduate medical training (~~in no more than two programs~~). The physician must acquire this training after completion of a formal course of undergraduate medical instruction outlined in RCW 18.71.055. The commission will accept only satisfactory clinical performance evaluations.

WSR 24-07-028
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 24-36—Filed March 12, 2024, 8:16 a.m., effective March 14, 2024]

Effective Date of Rule: March 14, 2024.

Purpose: The purpose of this emergency rule is to increase the pot limit in Crab Management Region 1, and Subregions 3-1, 3-2, 3-3, and 3-4 to 75 pots per license effective March 14, 2024.

Citation of Rules Affected by this Order: Repealing WAC 220-340-47000C; and amending WAC 220-340-470.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The pot limit in Crab Management Region 1, and Subregions 3-1, 3-2, 3-3, and 3-4 is increased to 75 pots per license. This increase in the pot limit is warranted because sufficient allocation remains to accommodate harvest in the Puget Sound commercial crab fisheries in [Sub]regions 1, 3-1, 3-2, 3-3, and 3-4. These provisions are in conformity with the last agreed[-to] management plans with applicable tribes. Comanagement plans are entered into as required by court order. The Puget Sound commercial season is structured to meet harvest allocation objectives negotiated with applicable treaty tribes and outlined in the management plans. There is insufficient time to adopt permanent rules. Further adjustment of season structure may be made pending updated harvest data.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: March 12, 2024.

Amy H. Windrope
for Kelly Susewind
Director

NEW SECTION

WAC 220-340-47000D Commercial crab fishery—Gear limits—Puget Sound and Marine Fish-Shellfish Management and Catch Reporting Areas

Notwithstanding the provisions of 220-340-470, effective March 14 through April 15, 2024:

Effective during the "Open period" listed by emergency rule pursuant to WAC 220-340-455(1), it is unlawful for any person to harvest crabs with more than the "Pot limit" per license per buoy tag number indicated within each "geographical management unit".

Geographical Management Unit (WAC 220-320-110)	Pot limit
Region 1, MFSF Catch Areas 21A, 21B, and 22B	75
Region 1, Marine Fish-Shellfish Catch Areas 22A, 20A, and 20B	75
Region 2E, excluding Everett Flats CSMA (WAC 220-320-120(3))	0
Region 2E, Everett Flats CSMA (WAC 220-320-120(3))	0
Region 2W, not including Port Townsend Bay CSMA (WAC 220-320-120(5))	0
Region 2W, Port Townsend Bay CSMA (WAC 220-320-120(5))	0
Subregion 3-1	75
Subregion 3-2, not including Discovery Bay CSMA (WAC 220-230-120 (1)(a)), Sequim Bay CSMA (WAC 220-320-120(6)), or the Port Angeles Harbor CSMA (WAC 220-320-120(4)).	75
Subregion 3-2, Discovery Bay CSMA (WAC 220-320-120 (1)(a))	20
Subregion 3-2, Sequim Bay CSMA (WAC 220-320-120(6))	20
Subregion 3-2, the Port Angeles Harbor CSMA (WAC 220-320-120(4)).	0
Subregion 3-3	75
Subregion 3-4	75

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

REPEALER

The following section of Washington Administrative Code is repealed, effective March 14, 2024:

WAC 220-340-47000C Commercial crab fishery—Gear limits—
Puget Sound and Marine Fish-Shellfish
Management and Catch Reporting Areas
(24-17)

WSR 24-07-033
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 24-37—Filed March 12, 2024, 5:52 p.m., effective March 12, 2024, 5:52 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this emergency rule is to open commercial red sea urchin harvest in District 3.

Citation of Rules Affected by this Order: Repealing WAC 220-340-75000F; and amending WAC 220-340-750.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This emergency rule opens commercial harvest of red urchins in District 3 immediately. There is insufficient time to adopt permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: March 12, 2024.

Amy H. Windrope
for Kelly Susewind
Director

NEW SECTION

WAC 220-340-75000G Commercial sea urchin fisheries. Effective immediately, until further notice, the provisions of WAC 220-340-750 regarding commercial harvest of sea urchins shall be modified as described below. All other provisions of WAC 220-340-750 not addressed herein remain in effect unless otherwise amended by emergency rule:

1. It is unlawful for any person to fish for, take, or possess for commercial purposes any green sea urchins less than 2.25 inches; or red sea urchins measuring less than 3.25 inches or greater than 5 inches. All measurements are caliper measurements of the largest shell (test) diameter, exclusive of the spines.

2. The following areas are open for red sea urchin harvest only, seven days-per-week: Sea Urchin District 2, District 3, and District 4.

3. The following areas are open for green sea urchin harvest only, seven days-per-week: Sea Urchin District 1 and District 2.

4. It is unlawful for any harvester to fish for, take, or possess for commercial purposes more than 1,500 pounds per species of red sea urchin or green sea urchin per license for each weekly fishery opening period.

[REPEALER]

The following section of the Washington Administrative Code is repealed:

WAC 220-340-75000F Commercial sea urchin fisheries.
(24-35)

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

WSR 24-07-044
EMERGENCY RULES
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Developmental Disabilities Administration)

[Filed March 13, 2024, 3:35 p.m., effective March 13, 2024, 3:35 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The developmental disabilities administration is adopting new sections of rule on an emergency basis to implement E2SSB 5440 (2023), which directs the department of social and health services to develop a process for connecting individuals who have been found not competent to stand trial due to an intellectual or developmental disability to available wraparound services and supports in community-based settings.

Citation of Rules Affected by this Order: New WAC 388-848-0010, 388-848-0020, 388-848-0030, 388-848-0040, 388-848-0050, 388-848-0060, 388-848-0070, 388-848-0080, 388-848-0090, and 388-848-0100.

Statutory Authority for Adoption: RCW 34.05.350 (1)(a).

Other Authority: RCW 10.77.060 (see ESSSB [E2SSB] 5440).

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Enacting these rules on an emergency basis is necessary in order to implement the program established under ESSSB [E2SSB] 5440, which is intended for people in need of immediate support after being deemed incompetent or nonreformable in order to inform those individuals of services available and ensure preservation of their health and safety by providing necessary services as quickly as possible.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 10, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 10, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 10, Amended 0, Repealed 0.

Date Adopted: March 13, 2024.

Katherine I. Vasquez
Rules Coordinator

SHS-5019.3

Chapter 388-848 WAC

CIVIL TRANSITIONS PROGRAMNEW SECTION

WAC 388-848-0010 What is the civil transitions program? The civil transitions program is a voluntary program for people referred to the developmental disabilities administration by the behavioral health administration as a result of a determination that the person is not competent to stand trial under RCW 10.77.084 and not likely restorable due to a diagnosis of intellectual or developmental disability.

NEW SECTION

WAC 388-848-0020 What definitions apply to this chapter? The following definitions apply to this chapter:

"Client" means a person who has a developmental disability as defined in RCW 71A.10.020 and who has been determined eligible by DDA to receive services under chapter 388-823 WAC.

"Community first choice" or "CFC" is a Medicaid state plan program as defined in chapter 388-106 WAC.

"Conditional services" means supportive housing services that may be available to a participant on an interim basis while awaiting a DDA-eligibility determination. Conditional services are limited to funds allocated for the program's purpose.

"Developmental disability" is defined in RCW 71A.10.020.

"DDA" means the developmental disabilities administration within the department of social and health services.

"Participant" means a person receiving services through the civil transitions program.

"Supportive housing" means a combination of rental assistance and wraparound services administered by DDA and intended to stabilize and support participants to live successfully in the community.

"Termination" means an action taken by DDA that ends DDA eligibility, DDA services, or both.

"Wraparound services" means support that helps a participant by:

- (1) Preparing for and transitioning to housing;
- (2) Providing guidance to help the participant maintain tenancy once housing is secured; and
- (3) Navigating community resources.

NEW SECTION

WAC 388-848-0030 Who is eligible to enroll in the civil transitions program? To be eligible for enrollment in the civil transitions program, a person must:

- (1) Be determined not competent to stand trial and not likely restorable under RCW 10.77.084 due to an intellectual or developmental disability;

(2) Be referred to the developmental disabilities administration by the behavioral health administration; and

(3) Either:

(a) Not be a current DDA client and agree to apply for a DDA eligibility determination under chapter 388-823 WAC no more than 30 days after enrolling in the civil transitions program; or

(b) Be a current DDA client who is not eligible for residential habilitation services under chapter 388-845 WAC.

NEW SECTION

WAC 388-848-0040 What services are available to a civil transitions program participant? (1) A participant who is not a DDA client upon program enrollment may request supportive housing services while awaiting an eligibility determination under chapter 388-823 WAC.

(2) A participant who is a DDA client will be referred to DDA services for which the client may be eligible. If the client is unable to access residential habilitation services, the client may request supportive housing.

(3) A participant may request community first choice services under chapter 388-106 WAC.

NEW SECTION

WAC 388-848-0050 Are supportive housing services available everywhere in Washington state? Supportive housing services are limited to areas of Washington state with contracted providers and support services available. A participant does not have a right to supportive housing services through the civil transitions program in any area of their choosing.

NEW SECTION

WAC 388-848-0060 When will DDA authorize my supportive housing services? Within available funds, DDA may authorize supportive housing services when an eligible participant signs a supportive housing agreement.

NEW SECTION

WAC 388-848-0070 When may DDA terminate a participant's supportive housing services? DDA may terminate a participant's supportive housing services if:

(1) The participant has acquired housing or is receiving residential habilitation services through DDA;

(2) The participant no longer needs the service;

(3) The participant does not follow conditions of the supportive housing admittance agreement;

(4) The participant fails to follow applicable rules, laws, or court orders; or

(5) Legislative funding for the civil transitions program is no longer available.

NEW SECTION

WAC 388-848-0080 Are there limits to how long a participant may receive supportive housing services? (1) If a participant is found ineligible for DDA services, the participant may continue to receive supportive housing services up to 90 days after the date the participant is found ineligible.

(2) If the participant has not acquired housing during the 90 days under subsection (1) of this section, DDA may approve an additional 90 days of supportive housing services.

(3) A participant who is a DDA client may receive supportive housing services through the civil transition program for up to one year.

NEW SECTION

WAC 388-848-0090 Who can apply to become a wraparound services provider? To apply to become a wraparound services provider, a person or entity must be one of the following DDA-contracted providers in good standing:

(1) An alternative living provider under chapter 388-829A WAC;

(2) A community engagement provider under WAC 388-845-0655;

(3) A foundational community supports provider under chapter 182-559 WAC; or

(4) A supported living, group home, or group training home provider under chapters 388-101 and 388-101D WAC.

NEW SECTION

WAC 388-848-0100 Does a participant have a right to an administrative hearing? A participant has a right to an administrative hearing in accordance with chapter 388-02 WAC and WAC 388-825-120 through 388-825-165.

WSR 24-07-046
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 24-38—Filed March 14, 2024, 8:15 a.m., effective March 15, 2024]

Effective Date of Rule: March 15, 2024.

Purpose: The purpose of this emergency rule is to close white sturgeon retention in the Columbia River from John Day Dam to McNary Dam.

Citation of Rules Affected by this Order: Repealing WAC 220-312-06000E; and amending WAC 220-312-060.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This rule is needed to close recreational sturgeon retention in the John Day reservoir. The projected total catch through March 14, 2024, is 99 fish as compared to the harvest guideline of 105 fish. Therefore, not enough fish remain under the guideline to allow for additional retention opportunity in this reservoir. This rule is necessary to remain within allowable harvest guidelines for nontreaty recreational fisheries for this pool. These populations are managed under sustainable harvest guidelines. This action is consistent with decisions made by the states of Washington and Oregon during the Columbia River compact hearing on March 13, 2024. There is insufficient time to adopt permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: March 13, 2024.

Kelly Susewind
Director

NEW SECTION

WAC 220-312-06000F Freshwater exceptions to statewide rules—Columbia River. Effective March 15 through April 30, 2024, the provisions of WAC 220-312-060, WAC 220-312-030, and WAC 220-316-010 regarding white sturgeon retention seasons from Bonneville Dam to McNary Dam

are as follows. All other provisions of WAC 220-312-060, WAC 220-316-010, and WAC 220-312-030 not addressed herein remain in effect unless otherwise amended by emergency rule:

From Bonneville Dam upstream to McNary Dam, including adjacent tributaries:

White sturgeon: Closed to retention. Catch and release fishing only.

REPEALER

The following section of Washington Administrative code is repealed, effective March 15, 2024:

WAC 220-312-06000E Freshwater exceptions to statewide rules—Columbia River. (24-26)

WSR 24-07-051
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 24-29—Filed March 14, 2024, 9:34 a.m., effective April 4, 2024]

Effective Date of Rule: April 4, 2024.

Purpose: This emergency rule: (1) Sets 2024 recreational halibut seasons; (2) sets annual limit of six halibut; and (3) allows halibut legally retained in Area 5 to be landed in Area 4 on days Area 4 is closed to halibut fishing.

Citation of Rules Affected by this Order: Amending WAC 220-314-030.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This emergency rule revises state rules to conform to proposed federal regulations. Halibut catch will continue to be closely monitored by Washington department of fish and wildlife staff; seasons may close earlier if quotas are achieved. Halibut seasons are open only by emergency rule (see WAC 220-314-040(1)).

Additionally, it is necessary to allow halibut legally retained in Catch Record Card Area 5 to be landed into port within Catch Record Card Area 4 on days when halibut fishing is closed in Area 4. This will support in prosecution of an orderly fishery by avoiding unnecessary enforcement action. There is insufficient time to adopt permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: March 14, 2024.

Kelly Susewind
Director

NEW SECTION

WAC 220-314-03000R Halibut—Seasons—Daily and possession limits. Notwithstanding the provisions of WAC 220-314-030, and 220-314-010, effective immediately, until further notice, it is unlawful to fish

for or possess halibut taken for personal use, except as provided in this section. All other provisions of WAC 220-314-030, and WAC 220-314-010, including Yelloweye Rockfish Conservation Areas (YRCA), not addressed herein, remain in effect unless otherwise amended by emergency rule:

(1) Marine Area 1 All Depth Fishery, including Southern Near Shore Fishery area described in section (2):

Open May 2, 5, 7, 9, 12, 14, 16, 19, 21, 23, 26, and 30; June 2, 4, 6, 9, 11, 13, 16, 18, 20, 23, 25, 27, and 30, 2024.

(2) Marine Area 1 Southern Near Shore Fishery; Those waters shoreward of a lined from 46°38.17'N. lat., 124°15.88'W. long., to the WA/OR border at 46°16.00'N. lat., 24°15.88'W. long. (then connecting to the 40-fathom depth contour in Oregon):

(a) Open during dates listed for Marine Area 1 All Depth Fishery in section (1), and open Mondays, Tuesdays, and Wednesdays, each week, beginning May 6, 2024, until further notice.

(b) Bottomfish, otherwise legal to retain, may be retained and landed when a vessel has landed or brought halibut into port on days when only the Southern Near Shore Fishery is open for halibut retention, but not on days when the All Depth halibut fishery is open as listed in section (1).

(3) Marine Area 2 All Depth Fishery, including Northern Near Shore Fishery area:

Open May 2, 5, 7, 9, 12, 14, 16, 19, 21, 23, 28, and 30; June 13, 16, 18, 20, 23, 25, 27, and 30, 2024.

(4) Marine Areas 3 and 4:

(a) Open May 2, 3, 4, 9, 10, 11, 16, 17, 18, 24, 26, 30, and 31; June 1, 2, 6, 7, 8, 9, 13, 14, 15, 16, 20, 21, 22, 23, 27, 28, 29, and 30.

(b) It is lawful to retain sablefish caught while in angling in MA 4 east of the Bonilla-Tatoosh line in waters seaward of the Bottomfish closure as defined in WAC 220-314-010 (2)(a) on days open for halibut.

(5) Marine Areas 5 through 10:

(a) Open April 4 through June 30, 2024.

(b) It is lawful to retain Pacific cod in Marine Area 5 in waters seaward of the Bottomfish closure as defined in WAC 220-314-010 (2)(a) on days open for halibut.

(c) It is lawful to retain Lingcod May 1 through June 15, 2024 caught while angling in Marine Area 5 in waters seaward of the Bottomfish closure as defined in WAC 220-314-010 (2)(a) on days open for halibut. It is unlawful to retain lingcod in Marine Area 5 prior to May 1 and after June 15, 2024.

(d) It is lawful to retain Sablefish caught while angling in Marine Area 5 in waters seaward of the Bottomfish closure as defined in WAC 220-313-101 (2)(a) on days open for halibut. The Sablefish daily limit in Marine Area 5 is 2.

(e) It is lawful to retain Pacific cod in Catch Record Card area 6 in waters seaward of the Bottomfish closure as defined in WAC 220-314-010 (2)(a) and waters deeper than 120 feet in the remaining portion of Catch Record Card Area 6 on days open for halibut.

(f) It is lawful to retain Pacific cod in waters deeper than 120 feet in Catch Record Card areas 7, 8-1, 8-2, 9, and 10 on days open for halibut.

(6) Marine Areas 11, 12 and 13: Closed.

(7) It is unlawful to fish for, retain, possess, or land halibut into a port located within an area that is closed to halibut fishing,

except it is lawful to land halibut into a port within Marine Area 4, that were lawfully retained in Marine Area 5.

(8) Halibut caught in Canadian waters may be landed into a port located within a marine area that is closed to halibut fishing. See WAC 220-310-210 for rules on Canadian-origin halibut possession.

(9) The annual limit is six halibut taken from state or offshore waters. This does not include Canadian waters; see WAC 220-310-210 for limits on Canadian-origin halibut.

(10) A violation of this section is punishable under RCW 77.15.370 or RCW 77.15.380, depending on the violation.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

WSR 24-07-056
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 24-40—Filed March 14, 2024, 3:44 p.m., effective March 16, 2024]

Effective Date of Rule: March 16, 2024.

Purpose: The purpose of this emergency rule is to open hatchery steelhead seasons in Salmon Creek (Clark County).

Citation of Rules Affected by this Order: Amending WAC 220-312-030.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This emergency rule is necessary to open hatchery steelhead seasons in a portion of Salmon Creek (Clark County). Changes to the Salmon Creek hatchery steelhead program, resulting from the Mitchell Act Biological Opinion, have resulted in the replacement of early returning winter steelhead stocks with local stocks that exhibit a somewhat later run timing. This rule opens hatchery steelhead fishing and provides anglers with additional time to harvest these late returning fish from Salmon Creek.

There is insufficient time to adopt permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: March 14, 2024.

Amy H. Windrope
for Kelly Susewind
Director

NEW SECTION

WAC 220-312-03000K Freshwater exceptions to statewide rules—Southwest. Effective March 16 through May 24, 2024, the provisions of WAC 220-312-030 regarding Salmon Creek hatchery steelhead seasons shall be modified during times and as described below. All other provisions of WAC 220-312-030 not addressed herein remain in effect unless otherwise amended by emergency rule:

Salmon Creek (Clark Co.): From the mouth to the 182nd Avenue Bridge: Effective March 16 through May 24, 2024:

Hatchery steelhead: Daily limit 3. Selective gear rules in effect, except use of barbed hooks is allowed.

WSR 24-07-059

EMERGENCY RULES

BUILDING CODE COUNCIL

[Filed March 15, 2024, 10:56 a.m., effective March 15, 2024, 10:56 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: This emergency filing is needed to reinstate an amendment erroneously removed from the 2021 International Fire Code during the 2021 initial rule making (2021 Code Adoption Cycle).

Citation of Rules Affected by this Order: New WAC 51-54A-0308.

Statutory Authority for Adoption: RCW 19.27.031, 19.27.074.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: During the drafting of the proposed amendments to chapter 51-54A WAC (2021 International Fire Code) a transcription error was made, having the effect of removing the existing Washington state amendment to Section 308.1.4. The removal was not proposed by the International Finance Corporation Technical Advisory Group nor the building, fire, and plumbing standing committee, and it was unintended by the building code council.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: March 15, 2024.

Daimon Doyle
Chair

OTS-5260.1

AMENDATORY SECTION (Amending WSR 22-13-093, 23-12-107, and 23-20-027, filed 6/14/22, 6/7/23, and 9/25/23, effective 3/15/24)

WAC 51-54A-0308 Open flames.

308.1.4 Open-flame cooking devices. This section is not adopted.

308.1.7 Religious ceremonies. Participants in religious ceremonies shall not be precluded from carrying hand-held candles. See RCW 19.27.031(3).

308.1.7.1 Aisles and exits. Candles shall be prohibited in areas where occupants stand, or in an aisle or exit.

EXCEPTION: Candles used in religious ceremonies.

308.1.9 Decorative open flame tables. Gas-fired portable or fixed open flame fire tables and fireplaces are required to be provided with approved protection devices to prevent occupants from using flame, and from flame being exposed to combustible material. A fire extinguisher shall be located within 75 feet of travel distance or as approved. Where located indoors, the supply gas valve shall be interlocked with building fire alarm and/or fire sprinklers, where provided.

WSR 24-07-060

EMERGENCY RULES

BUILDING CODE COUNCIL

[Filed March 15, 2024, 11:30 a.m., effective March 15, 2024, 11:30 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: To delete 2021 Wildland-Urban Interface Code and reserve numbers within chapter 51-55 WAC.

Citation of Rules Affected by this Order: Amending WAC 51-55-001, 51-55-002, 51-55-003, 51-55-008, 51-55-0100, 51-55-0200, 51-55-0300, 51-55-0400, 51-55-0500, 51-55-0600, 51-55-0700, 51-55-0800, 51-55-0900, and 51-55-1000.

Statutory Authority for Adoption: RCW 19.27.031, 19.27.560.

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: ESB 6120 requires a new wildfire hazard map and a base-level wildfire risk map for each county of the state to be completed by the department of natural resources. The 2021 Wildland-Urban Interface Code cannot be adopted and maintained without this mapping completed. The Washington state building council will adopt portions of the Wildland-Urban Interface Code as directed by ESB 6120.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 14, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: March 15, 2024.

Daimon Doyle
Chair

OTS-5271.1

AMENDATORY SECTION (Amending WSR 23-02-056, 23-12-109, and 23-20-028, filed 1/3/23, 6/7/23, and 9/25/23, effective 3/15/24)

WAC 51-55-001 Authority. (~~(These rules are adopted under the authority of chapter 19.27 RCW.)~~) Reserved.

AMENDATORY SECTION (Amending WSR 23-02-056, 23-12-109, and 23-20-028, filed 1/3/23, 6/7/23, and 9/25/23, effective 3/15/24)

WAC 51-55-002 Purpose. (~~The purpose of these rules is to implement the provisions of chapter 19.27 RCW, which provides that the state building code council shall maintain the state building code in a status which is consistent with the purpose as set forth in RCW 19.27.020. In maintaining the codes the council shall regularly review updated versions of the codes adopted under the act, and other pertinent information, and shall amend the codes as deemed appropriate by the council.~~) Reserved.

AMENDATORY SECTION (Amending WSR 23-02-056, 23-12-109, and 23-20-028, filed 1/3/23, 6/7/23, and 9/25/23, effective 3/15/24)

WAC 51-55-003 International Wildland-Urban Interface Code. (~~The 2021 edition of the *International Urban Interface Code*, published by the International Code Council, is hereby adopted by reference with the following additions, deletions, and exceptions.~~) Reserved.

AMENDATORY SECTION (Amending WSR 23-23-107, filed 11/15/23, effective 3/16/24)

WAC 51-55-008 Implementation. (~~The International Wildland-Urban Interface Code adopted by this chapter shall become effective in all counties and cities of this state on March 15, 2024.~~) Reserved.

AMENDATORY SECTION (Amending WSR 23-02-056, 23-12-109, and 23-20-028, filed 1/3/23, 6/7/23, and 9/25/23, effective 3/15/24)

WAC 51-55-0100 Scope and administration.

~~((101 Scope and general requirements.~~

101.2 Scope. ~~The provisions of this code shall apply to the construction, alteration, movement, repair, maintenance and use of any building, structure, or premises within the wildland-urban interface areas in this jurisdiction.~~

~~Buildings or conditions in existence at the time of the adoption of this code are allowed to have their use or occupancy continued, if such condition, use or occupancy was legal at the time of the adoption of this code, provided that such continued use does not constitute an egregious danger to life or property.~~

~~Buildings or structures moved into or within the jurisdiction shall comply with the provisions of this code for new buildings or structures.~~

101.4 Retroactivity. ~~The provisions of the code shall apply to conditions arising after the adoption thereof, conditions not legally in existence at the adoption of this code and conditions that, as determined by the code official, constitute an egregious hazard to life or property.~~

EXCEPTION: Provisions of this code that specifically apply to existing conditions are retroactive.)

Reserved.

AMENDATORY SECTION (Amending WSR 23-02-056, 23-12-109, and 23-20-028, filed 1/3/23, 6/7/23, and 9/25/23, effective 3/15/24)

WAC 51-55-0200 Chapter 2—Definitions.

~~((202 Definitions.~~

~~**ACCESSORY STRUCTURE.** A building or structure used to shelter or support any material, equipment, chattel or occupancy other than a habitable building, or a habitable building or structure that is accessory to and incidental to that of the dwelling(s) and that is located on the same lot.~~

~~**BUILDING OFFICIAL.** Not adopted.~~

~~**EGREGIOUS DANGER.** A danger that if left unmitigated, places the occupants or property in immediate danger.~~

~~**FUEL, HEAVY.** Vegetation consisting of round wood 3 to 8 inches (76 to 203 mm) in diameter. See Fuel Models G, I, J, K, and U described in Chapter 9.~~

~~**FUEL, LIGHT.** Vegetation consisting of herbaceous plants and round wood less than 1/4-inch (6.4 mm) in diameter. See Fuel Models A, C, E, L, N, P, R, and S described in Chapter 9.~~

~~**FUEL, MEDIUM.** Vegetation consisting of round wood 1/4 to 3 inches (6.4 mm to 76 mm) in diameter. See Fuel Models B, D, F, H, O, Q, and T described in Chapter 9.~~

~~**HIGH-DENSITY VEGETATED AREA.** An area defined by a square determined in accordance with Section 302.3.1, with 75 percent or more vegetation.~~

~~**WASHINGTON WILDLAND-URBAN INTERFACE MAP (WA-WUI).** The Washington department of natural resources map designating urban areas, wildland-urban interface, wildland-urban intermix, wildlands, and long-term nonbuildable areas, designated as the Washington wildland-urban interface as mapped for 2019 by the Washington state department of natural resources wildfire and forest health divisions under consultation from the USFS Rocky Mountain Research Station.~~

~~**WILDLAND-URBAN INTERFACE/INTERMIX AREA.** That geographical area where structures and other human development meets or intermingles with wildland or vegetative fuels.) Reserved.~~

AMENDATORY SECTION (Amending WSR 23-23-107, filed 11/15/23, effective 3/16/24)

WAC 51-55-0300 Wildland-urban interface areas.

~~((301 General.~~

~~**301.1 Scope.** Wildland urban interface areas shall be determined using the Washington wildland urban interface map (WA-WUI). WA-WUI designa-~~

tions are permitted to be modified, upon approval of a finding of fact in accordance with Section 302.

User note: The WA-WUI map is available at <https://geo.wa.gov/maps/786aaaldbbd748e6ae04bc43e8f127fe/explore>.

301.2 Construction in wildland-urban interface or intermix areas.

Where a structure is proposed to be constructed in an area designated by the WA-WUI map as wildland-urban interface or intermix, the construction shall comply with the provisions of this code.

301.3 Construction in wildlands areas. Where a structure is proposed to be constructed in an area designated by the WA-WUI map as wildlands, the applicable wildland urban interface area designation shall be based on a finding of fact in accordance with Section 302.

302 Wildland-urban interface area designations.

302.1 General. Wildland urban interface area designations are permitted to be established in accordance with this section.

302.2 Finding of fact. The applicable wildland urban interface designation shall be based on a finding of fact. The finding of fact shall comply with the provisions of Appendix E or is permitted to be based on the worksheet and procedures in Section 302.3.

302.3 Simplified wildland urban interface designation worksheet. The wildland urban interface designation is permitted to be established using the procedure outlined in Table 302(1), using the worksheet in Table 302(2).

302.3.1 Area to be evaluated. For the purposes of establishing structure and vegetation densities, the area covered by a square of 1320 feet on a side (40 acres) shall be evaluated. The square area shall be located such that the site under consideration is in its center, except where the square would overlap a water body shown on the WA-WUI map with a surface area greater than 200,000 square feet, the location shall be adjusted such that no part of the square overlaps the water body.

**Table 302.3(1)
Outline of Simplified Procedure for Determining Wildland Interface Designation**

For the area to be evaluated in Section 302.3.1:
1. Determine structure density category (uninhabited, very low, low, medium, or high):
2. Determine vegetation density category (nonvegetated or vegetated):
3. Determine proximity category (near or distant):
4. Based on structure density, vegetation density, and proximity categories, determine if compliance with this code is required (WUIC applies, WUIC does not apply):
5. Where compliance with this code is required, determine wildland urban interface area designation (intermix or interface):

302.3.2 Structure density category. The structure density category shall be determined by counting the number of structures within the area to be evaluated per Section 302.3.1. The structure density category shall be determined as follows:

UNINHABITED:	0 structures
VERY LOW:	1 structure
LOW:	2 to 8 structures

MEDIUM: 9 to 120 structures
 HIGH: more than 120 structures

302.3.3 Vegetation density category. ~~Vegetation coverage within the area to be evaluated per Section 302.3.1 shall be determined in accordance with Chapter 9. Vegetation density shall be determined by dividing the vegetation coverage by 1,742,400 square feet (40 acres). Where the vegetation density is less than 50 percent, the vegetation density category for the site shall be nonvegetated. Where the vegetation density is 50 percent or more, the vegetation density category for the site shall be vegetated.~~

302.3.4 Proximity category. ~~The distance from the site being evaluated to a high-density vegetated area shall be measured from the closest edge of the site boundary to the closest edge of the nearest high-density vegetated area. Where the distance is less than 1.5 miles, the proximity category shall be near. Where the distance is 1.5 miles or more, the proximity category shall be distant.~~

302.3.5 WUIC applicability. ~~The WUIC shall apply, and the site shall be designated as intermix or interface in accordance with Section 302.3.6 under either of the following conditions:~~

- ~~1. The structure density category is very low to high, and the vegetation density category is vegetated.~~
- ~~2. The structure density category is very low to high, and the proximity category is near.~~

~~The WUIC shall not apply under either of the following conditions:~~

- ~~1. The structure density category is uninhabited, and the site is not located within an area designated as intermix or interface on the WA-WUI map.~~
- ~~2. The structure density category is uninhabited to high, the vegetation density category is nonvegetated, and the proximity category is distant.~~

302.3.6 Wildland urban interface area designation. ~~Where required by Section 302.3.5, the site shall be designated as intermix or interface in accordance with Section 302.3.6.1 or 302.3.6.2.~~

302.3.6.1 Intermix designation. ~~The site shall be designated as intermix where the structure density category is very low to high, and the vegetation density category is vegetated.~~

302.3.6.2 Interface designation. ~~The site shall be designated as interface where the structure density category is very low to high, and the proximity category is near.~~

Table 302(1). Outline of simplified procedure for determining wildland interface designation

1. Determine structure density category in accordance with Section 302.3.2. Numbers in table are the number of structures within the area determined by Section 302.3.1.

UNINHABITED		VERY LOW		LOW		MEDIUM		HIGH
0		1		2 TO 8		9 TO 120		MORE THAN 120

2. Determine vegetation density category within the area determined by Section 302.3.1.

	NONVEGETATED		VEGETATED
	Less than 50% vegetated		50% or more vegetated

3. Determine proximity category to the nearest high-density vegetated area.

	NEAR		DISTANT	
	Less than 1.5 mi (2.414 km)		1.5 mi (2.414 km) or more	

4. Use structure density, vegetation density, and proximity categories from above to determine if WUIC applies.

	WUIC Applies		WUIC Does Not Apply	
	<ul style="list-style-type: none"> • Structure density category is very low to high; and • Vegetation density category is vegetated. 		<ul style="list-style-type: none"> • Structure density category is uninhabited; and • The site is not located within an area designated as intermix or interface on the WA-WUI map. 	
	<ul style="list-style-type: none"> • Structure density category is very low to high; and • Proximity category is near. 		<ul style="list-style-type: none"> • Structure density category is uninhabited to high; and • Vegetation density category is nonvegetated; and • Proximity category is distant. 	

5. Where WUIC applies, the site shall be designated as intermix or interface as follows:

	INTERMIX		INTERFACE	
	<ul style="list-style-type: none"> • Structure density category is very low to high; and • Vegetation density category is vegetated. 		<ul style="list-style-type: none"> • Structure density category is very low to high; and • Proximity category is near. 	

~~**Table 302(2). Worksheet for simplified procedure for determining wildland interface designation**~~

~~**302.4 Review of wildland-urban interface areas.** The code official shall review for approval evaluated areas for new or modified findings of fact. Where a new or modified findings of fact are approved, the code official shall recommend to WADNR a modification to the wildland-urban interface areas mapping.) Reserved.~~

AMENDATORY SECTION (Amending WSR 23-02-056, 23-12-109, and 23-20-028, filed 1/3/23, 6/7/23, and 9/25/23, effective 3/15/24)

WAC 51-55-0400 Wildland-urban interface area requirements.

~~**(401 General.**~~

~~**401.1 Scope.** Wildland-urban interface areas shall be provided with emergency vehicle access and water supply in accordance with this chapter.~~

~~**401.2 Objective.** This section is not adopted.~~

~~**401.3 General safety precautions.** This section is not adopted.~~

~~**402 Applicability.**~~

~~**402.1 Subdivisions.** Subdivisions shall comply with locally adopted standards.~~

~~**402.1.1 Access.** This section is not adopted.~~

~~**402.1.2 Water supply.** This section is not adopted.~~

~~**402.2 Individual structures.** Individual structures shall comply with Sections 402.2.1 and 402.2.2.~~

~~**402.2.1 Access.** Individual structures hereafter constructed or relocated into or within wildland-urban interface areas shall be provided~~

~~with driveways in accordance with Section 403.2 and locally adopted standards. Marking of fire protection equipment shall be provided in accordance with Section 403.5 and address markers shall be provided in accordance with Section 403.6.~~

~~**402.2.2 Water supply.** Individual structures hereafter constructed or relocated into or within *wildland urban interface* areas shall be provided with a conforming water supply in accordance with locally adopted standards.~~

EXCEPTION: Not adopted.

~~**402.3 Existing conditions.** This section is not adopted.~~

~~**403 Access.**~~

~~**403.2.1 Dimensions.** This section is not adopted.~~

~~**403.2.2 Length.** This section is not adopted.~~

~~**403.2.3 Service limitations.** This section is not adopted.~~

~~**403.2.4 Turnarounds and turnouts.** *Driveways* in excess of three hundred feet in length shall be provided with turnarounds. *Driveways* in excess of five hundred feet in length and less than twenty feet in width shall be provided with turnouts and turnarounds. Turnarounds and turnouts shall be designed as required by locally adopted standards.~~

~~**403.2.5 Turnouts.** This section is not adopted.~~

~~**403.3 Fire apparatus access road.** Where required, fire apparatus access roads shall be provided and maintained as required by locally adopted street, road, and access standards.~~

~~**403.4 Marking of roads.** This section is not adopted.~~

~~**403.4.1 Sign construction.** This section is not adopted.~~

~~**404 Water supply.**~~

~~**404.1 General.** Water supply shall be provided and maintained as required by locally adopted standards.~~

~~**404.2 Water sources.** This section is not adopted.~~

~~**404.3 Draft sites.** This section is not adopted.~~

~~**404.3.1 Access.** This section is not adopted.~~

~~**404.3.2 Pumper access points.** This section is not adopted.~~

~~**404.4 Hydrants.** This section is not adopted.~~

~~**404.5 Adequate water supply.** This section is not adopted.~~

~~**404.6 Fire department.** This section is not adopted.~~

~~**404.7 Obstructions.** This section is not adopted.~~

~~**404.8 Identification.** This section is not adopted.~~

~~**404.9 Testing and maintenance.** This section is not adopted.~~

~~**404.10 Reliability.** This section is not adopted.~~

~~**404.10.1 Objective.** This section is not adopted.~~

~~**404.10.2 Clearance of fuel.** This section is not adopted.~~

~~**404.10.3 Standby power.** This section is not adopted.)) Reserved.~~

AMENDATORY SECTION (Amending WSR 23-23-107, filed 11/15/23, effective 3/16/24)

WAC 51-55-0500 Special building construction regulations.

~~((Section 501 General.~~

~~**501.1 General.** Buildings and structures hereafter constructed, modified, or relocated into or within the *wildland-urban interface area* shall meet the construction requirements of Sections 501.4 through 501.8.~~

~~EXCEPTIONS:~~

- ~~1. Buildings and structures with fire hazard severity determined in Section 502 and with ignition-resistant construction classification determined in Section 503.~~
- ~~2. Accessory structures not exceeding 200 square feet (18.5 m²) in floor area and where located not less than 50 feet (15,240 mm) from buildings or structures containing habitable spaces.~~
- ~~3. Agricultural buildings located not less than 50 feet (15,240 mm) from buildings or structures containing habitable spaces.~~

~~**501.2 Objective.** This section is not adopted.~~

~~**501.4 Roof covering.** Roofs shall have a roof assembly that complies with a Class A rating when tested in accordance with ASTM E108 or UL 790. For roof assemblies where the profile allows a space between the roof covering and roof deck, the space at the eave ends shall be fire-stopped to preclude entry of flames or embers or have one layer of 72-pound (32.4 kg) mineral-surfaced, nonperforated cap sheet complying with ASTM D3909 installed over the combustible roof deck.~~

~~EXCEPTIONS:~~

- ~~1. Class A roof assemblies including those with coverings of brick, masonry, or an exposed concrete roof deck.~~
- ~~2. Class A roof assemblies also include ferrous or copper shingles or sheets, metal sheets and shingles, clay or concrete roof tile or slate installed on noncombustible decks or ferrous, copper or metal sheets installed without a roof deck on noncombustible framing.~~
- ~~3. Class A roof assemblies include minimum 16 oz/sq. ft. (0.0416 kg/m²) copper sheets installed over combustible roof decks.~~

~~**501.4.1 Roof valleys.** Where provided, valley flashings shall be not less than 0.019-inch (0.48 mm) (No. 26 galvanized sheet gage) corrosion-resistant metal installed over a minimum 36-inch-wide (914 mm) underlayment consisting of one layer of 72-pound (32.4 kg) mineral-surfaced, nonperforated cap sheet complying with ASTM D3909 running the full length of the valley.~~

~~**501.5 Exterior walls and projections other than decks.** Exterior walls and projections other than decks, of buildings, or structures, or *accessory structures* attached to buildings or structures with habitable spaces, shall be constructed with one of the following methods, with materials extending from the top of the foundation to the underside of the roof sheathing:~~

- ~~1. Materials approved for not less than one hour fire-resistance rated construction on the exterior side;~~
- ~~2. Approved noncombustible materials;~~
- ~~3. Heavy timber or log wall construction;~~
- ~~4. Fire-retardant-treated wood on the exterior side. The fire-retardant-treated wood shall be labeled for exterior use and meet the requirements of Section 2303.2 of the International Building Code; or~~
- ~~5. Ignition-resistant materials, complying with Section 503.2 on the exterior side.~~

~~EXCEPTION:~~ Unenclosed accessory structures attached to buildings with habitable spaces and projections, such as decks, attached to the first floor of a building, if when the structure is built with building materials at least two inches nominal depth and the area below the unenclosed accessory structure is screened with material with openings no greater than 1/4-inch maximum to prevent accumulation of combustibles and to prevent embers from coming in underneath.

~~**501.6 Decks and appendages.** The material of decks, porches, balconies, and stairs shall be constructed with any of the following materials:~~

- ~~1. Ignition-resistant material that complies with the minimum performance requirement of Section 503.2.~~

~~2. Exterior fire-retardant-treated wood.~~

~~3. Noncombustible material.~~

~~4. Any material that complies with the minimum performance requirements of Section 503.2 when attached exterior wall covering is also either noncombustible or ignition-resistant material.~~

~~5. Heavy timber construction consisting of the following:~~

~~5.1. Posts shall be a minimum of 6 inches x 6 inches nominal dimension.~~

~~5.2. Beams shall be a minimum of 6 inches x 8 inches nominal dimension.~~

~~5.3. Joists shall be a minimum of 4 inches x 8 inches nominal dimension spaced at no greater than 24 inches on center.~~

501.6.1 Clearance. ~~Decks with less than 48 inches of clearance from finished grade to deck joists shall be enclosed with screen material with openings no greater than 1/4-inch maximum to prevent accumulation of combustibles and to prevent embers from coming in underneath.~~

501.6.2 Walking surfaces. ~~The walking surface material of decks, porches, balconies, and stairs shall be constructed with one of the following materials:~~

~~1. Ignition-resistant material that complies with the performance requirements of Section 503.2.~~

~~2. Exterior fire-retardant-treated wood.~~

~~3. Noncombustible material.~~

~~4. Where the deck, porch, balcony, or stairs are constructed of heavy timber in accordance with Section 501.6, natural wood decking products shall be:~~

~~4.1. 2-inch nominal dimension lumber; or~~

~~4.2. 1 1/4-inch nominal hardwood (i.e., teak, mahogany, or other approved hardwood).~~

~~5. Material that complies with the performance requirements of Section 501.6.2.1 when tested in accordance with ASTM E2632 and when attached exterior wall covering is also composed of only noncombustible or ignition-resistant materials.~~

EXCEPTION: ~~Wall material shall be permitted to be of any material that otherwise complies with Section 501.5 when the decking surface material complies with the performance requirements of ASTM E84 with a Class B flame spread index.~~

501.6.2.1 Material in Section 501.6.2, Item 5. ~~The walking surface material shall be tested in accordance with ASTM E2632 and shall comply with the following condition of acceptance. The ASTM E2632 test shall be conducted on a minimum of three test specimens and the peak heat release rate shall be less than or equal to 25 kW/ft² (269 kW/m²). If any one of the three tests does not meet the conditions of acceptance, three additional tests shall be run. All the additional tests shall meet the condition of acceptance.~~

501.7 Exterior glazing. ~~Exterior windows, window walls and glazed doors, windows within exterior doors, and skylights shall be tempered glass, multilayered glazed panels, glass block, or have a fire protection rating of not less than 20 minutes.~~

501.8 Vents. ~~Attic ventilation openings, foundation or underfloor vents, or other ventilation openings in vertical exterior walls and vents through roofs shall not exceed 144 square inches (0.0929 m²) each. Such vents shall be covered with noncombustible corrosion-resistant mesh with openings not to exceed 1/4 inch (6.4 mm), or shall be designed and approved to prevent flame or ember penetration into the structure.~~

~~1. Attic ventilation openings shall not be located in soffits, in eave overhangs, between rafters at eaves, or in other overhang areas. Gable end and dormer vents shall be located not less than 10 feet (3048 mm) from lot lines. Underfloor ventilation openings shall be located as close to grade as possible.~~

~~502 Fire hazard severity.~~

~~502.1 General.~~ The fire hazard severity of building sites for buildings hereafter constructed, modified, or relocated into *wildland-urban interface areas* shall be established in accordance with Table 502.1. See also Chapter 8.

~~502.2 Fire hazard severity reduction.~~ The fire hazard severity identified in Table 502.1 is allowed to be reduced by implementing a vegetation management plan in accordance with Chapter 7.

~~TABLE 502.1
FIRE HAZARD SEVERITY
(No change to the table)~~

~~504 Class 1 ignition-resistant construction.~~

~~504.7 Appendages and projections.~~ Accessory structures attached to buildings with habitable spaces and projections other than decks, porches, balconies, or stairs, shall be not less than 1-hour fire-resistance-rated construction, heavy timber construction, or constructed of one of the following:

- ~~1. Approved noncombustible materials.~~
- ~~2. Fire-retardant-treated wood identified for exterior use and meeting the requirements of Section 2303.2 of the *International Building Code*.~~
- ~~3. Ignition-resistant building materials in accordance with Section 503.2.~~

EXCEPTION: Not adopted.

~~504.8 Decks and appendages.~~ The material of decks, porches, balconies, and stairs shall be constructed with any of the following materials:

- ~~1. Ignition-resistant material that complies with the minimum performance requirement of Section 503.2.~~
- ~~2. Exterior fire-retardant-treated wood.~~
- ~~3. Noncombustible material.~~
- ~~4. Any material that complies with the minimum performance requirements of Section 503.2 when attached exterior wall covering is also either noncombustible or ignition-resistant material.~~
- ~~5. Heavy timber construction consisting of the following:~~
 - ~~5.1. Posts shall be a minimum of 6 inches x 6 inches nominal dimension.~~
 - ~~5.2. Beams shall be a minimum of 6 inches x 8 inches nominal dimension.~~
 - ~~5.3. Joists shall be a minimum of 4 inches x 8 inches nominal dimension spaced at no greater than 24 inches on center.~~

~~504.8.1 Clearance.~~ Decks with less than 48 inches of clearance from finished grade to deck joists shall be enclosed with screen material with openings no greater than 1/4-inch maximum to prevent accumulation of combustibles and to prevent embers from coming in underneath.

~~504.8.2 Walking surfaces.~~ The walking surface material of decks, porches, balconies, and stairs shall be constructed with one of the following materials:

1. Ignition-resistant material that complies with the performance requirements of Section 503.2.
2. Exterior fire-retardant-treated wood.
3. Noncombustible material.
4. Where the deck, porch, balcony, or stairs are constructed of heavy timber in accordance with Section 501.6, natural wood decking products shall be:
 - 4.1. 2-inch nominal dimension lumber; or
 - 4.2. 1 1/4-inch nominal hardwood (i.e., teak, mahogany, or other approved hardwood).
5. Material that complies with the performance requirements of Section 504.8.2.1 when tested in accordance with ASTM E2632 and when attached exterior wall covering is also composed of only noncombustible or ignition-resistant materials.

EXCEPTION: Wall material shall be permitted to be of any material that otherwise complies with Section 501.5 when the decking surface material complies with the performance requirements of ASTM E84 with a Class B flame spread index.

504.8.2.1 Material in Section 504.8.2, Item 5. The walking surface material shall be tested in accordance with ASTM E2632 and shall comply with the following condition of acceptance. The ASTM E2632 test shall be conducted on a minimum of three test specimens and the peak heat release rate shall be less than or equal to 25 kW/ft² (269 kW/m²). If any one of the three tests does not meet the conditions of acceptance, three additional tests shall be run. All the additional tests shall meet the condition of acceptance.

504.9 Exterior glazing. Exterior windows, window walls and glazed doors, windows within exterior doors, and skylights shall be tempered glass, multilayered glazed panels, glass block or have a fire protection rating of not less than 20 minutes.

504.10 Exterior doors. Exterior doors shall be approved noncombustible construction, solid core wood not less than 1 3/4 inches thick (44 mm), or have a fire protection rating of not less than 20 minutes. Windows within doors and glazed doors shall be in accordance with Section 504.8.

EXCEPTION: Vehicle access doors.

504.11 Vents. Attic ventilation openings, foundation or underfloor vents, or other ventilation openings in vertical exterior walls and vents through roofs shall not exceed 144 square inches (0.0929 m²) each. Such vents shall be covered with noncombustible corrosion-resistant mesh with openings not to exceed 1/4 inch (6.4 mm), or shall be designed and approved to prevent flame or ember penetration into the structure.

504.11.1 Vent locations. Attic ventilation openings shall not be located in soffits, in eave overhangs, between rafters at eaves, or in other overhang areas. Gable end and dormer vents shall be located not less than 10 feet (3048 mm) from lot lines. Underfloor ventilation openings shall be located as close to grade as practical.

504.12 Detached accessory structures. Detached accessory structures located less than 50 feet (15,240 mm) from a building containing habitable space shall have exterior walls constructed with materials approved for not less than 1-hour fire resistance-rated construction, heavy timber, log wall construction, or constructed with approved noncombustible materials or fire-retardant-treated wood on the exterior side. The fire-retardant-treated wood shall be labeled for exterior

use and meet the requirements of Section 2303.2 of the *International Building Code*.

504.12.1 Underfloor areas. Where the detached structure is located and constructed so that the structure or any portion thereof projects over a descending slope surface greater than 10 percent, the area below the structure shall have underfloor areas enclosed to within 6 inches (152 mm) of the ground, with exterior wall construction in accordance with Section 504.5 or underfloor protection in accordance with Section 504.6.

EXCEPTION: The enclosure shall not be required where the underside of exposed floors and exposed structural columns, beams and supporting walls are protected as required for exterior 1-hour *fire-resistance-rated construction* or *heavy timber construction* or fire-retardant-treated wood on the exterior side. The fire-retardant-treated wood shall be labeled for exterior use and meet the requirements of Section 2303.2 of the *International Building Code*.

505 Class 2 ignition-resistant construction.

505.7 Appendages and projections. *Accessory structures* attached to buildings with habitable spaces and projections, other than decks, porches, balconies, or stairs, shall be not less than 1-hour *fire-resistance-rated construction*, *heavy timber construction* or constructed of one of the following:

1. *Approved noncombustible materials.*
2. *Fire-retardant-treated wood identified for exterior use and meeting the requirements of Section 2303.2 of the International Building Code.*
3. *Ignition-resistant building materials in accordance with Section 503.2.*

EXCEPTION: Not adopted.

505.8 Decks and appendages. The material of decks, porches, balconies, and stairs shall be constructed with any of the following materials:

1. *Ignition-resistant material that complies with the minimum performance requirement of Section 503.2.*
2. *Exterior fire-retardant-treated wood.*
3. *Noncombustible material.*
4. *Any material that complies with the minimum performance requirements of Section 503.2 when attached exterior wall covering is also either noncombustible or ignition-resistant material.*
5. *Heavy timber construction consisting of the following:*
 - 5.1. *Posts shall be a minimum of 6 inches x 6 inches nominal dimension.*
 - 5.2. *Beams shall be a minimum of 6 inches x 8 inches nominal dimension.*
 - 5.3. *Joists shall be a minimum of 4 inches x 8 inches nominal dimension spaced at no greater than 24 inches on center.*

505.8.1 Clearance. Decks with less than 48 inches of clearance from finished grade to deck joists shall be enclosed with screen material with openings no greater than 1/4-inch maximum to prevent accumulation of combustibles and to prevent embers from coming in underneath.

505.8.2 Walking surfaces. The walking surface material of decks, porches, balconies, and stairs shall be constructed with one of the following materials:

1. *Ignition-resistant material that complies with the performance requirements of Section 503.2.*
2. *Exterior fire-retardant-treated wood.*
3. *Noncombustible material.*

4. Where the deck, porch, balcony, or stairs are constructed of heavy timber in accordance with Section 501.6, natural wood decking products shall be:

4.1. 2-inch nominal dimension lumber; or

4.2. 5/4-inch nominal hardwood (i.e., teak, mahogany, or other approved hardwood).

5. Material that complies with the performance requirements of Section 505.8.2.1 when tested in accordance with ASTM E2632 and when attached exterior wall covering is also composed of only noncombustible or ignition-resistant materials.

EXCEPTION: Wall material shall be permitted to be of any material that otherwise complies with Section 501.5 when the decking surface material complies with the performance requirements of ASTM E84 with a Class B flame spread index.

505.8.2.1 Material in Section 505.8.2, Item 5. The walking surface material shall be tested in accordance with ASTM E2632 and shall comply with the following condition of acceptance. The ASTM E2632 test shall be conducted on a minimum of three test specimens and the peak heat release rate shall be less than or equal to 25 kW/ft² (269 kW/m²). If any one of the three tests does not meet the conditions of acceptance, three additional tests shall be run. All the additional tests shall meet the condition of acceptance.

505.9 Exterior glazing. Exterior windows, window walls and glazed doors, windows within exterior doors, and skylights shall be tempered glass, multilayered glazed panels, glass block or have a fire protection rating of not less than 20 minutes.

505.10 Exterior doors. Exterior doors shall be approved noncombustible construction, solid core wood not less than 1 3/4 inches thick (45 mm), or have a fire protection rating of not less than 20 minutes. Windows within doors and glazed doors shall be in accordance with Section 505.8.

EXCEPTION: Vehicle access doors.

505.11 Vents. Attic ventilation openings, foundation or underfloor vents or other ventilation openings in vertical exterior walls and vents through roofs shall not exceed 144 square inches (0.0929 m²) each. Such vents shall be covered with noncombustible corrosion-resistant mesh with openings not to exceed 1/4 inch (6.4 mm) or shall be designed and approved to prevent flame or ember penetration into the structure.

505.11.1 Vent locations. Attic ventilation openings shall not be located in soffits, in eave overhangs, between rafters at eaves, or in other overhang areas. Gable end and dormer vents shall be located not less than 10 feet (3048 mm) from lot lines. Underfloor ventilation openings shall be located as close to grade as practical.

505.12 Detached accessory structures. Detached accessory structures located less than 50 feet (15,240 mm) from a building containing habitable space shall have exterior walls constructed with materials approved for not less than 1-hour fire resistance-rated construction, heavy timber, log wall construction, or constructed with approved noncombustible materials or fire-retardant-treated wood on the exterior side. The fire-retardant-treated wood shall be labeled for exterior use and meet the requirements of Section 2303.2 of the *International Building Code*.

~~**505.12.1 Underfloor areas.** Where the detached *accessory structure* is located and constructed so that the structure or any portion thereof projects over a descending slope surface greater than 10 percent, the area below the structure shall have underfloor areas enclosed to within 6 inches (152 mm) of the ground, with exterior wall construction in accordance with Section 505.5 or underfloor protection in accordance with Section 505.6.~~

EXCEPTION: The enclosure shall not be required where the underside of exposed floors and exposed structural columns, beams and supporting walls are protected as required for exterior 1-hour *fire-resistance-rated construction* or heavy-timber construction or fire-retardant-treated wood on the exterior side. The fire-retardant-treated wood shall be labeled for exterior use and meet the requirements of Section 2303.2 of the *International Building Code*.

~~**507 Replacement or repair of roof coverings.**~~

~~**507.1 General.** The *roof covering* on buildings or structures in existence prior to the adoption of this code that are replaced or have 50 percent or more replaced in a 12-month period shall be replaced with a *roof covering* required by Section 501.4 or based on the type of ignition-resistant construction as determined by Section 501.1 Exception 1.)~~ Reserved.

AMENDATORY SECTION (Amending WSR 23-02-056, 23-12-109, and 23-20-028, filed 1/3/23, 6/7/23, and 9/25/23, effective 3/15/24)

WAC 51-55-0600 Fire protection requirements.

~~((**602 Automatic sprinkler systems.**~~

~~**602.1 General.** An *approved* automatic sprinkler system shall be installed when required by the authority having jurisdiction.)~~ Reserved.

AMENDATORY SECTION (Amending WSR 23-02-056, 23-12-109, and 23-20-028, filed 1/3/23, 6/7/23, and 9/25/23, effective 3/15/24)

WAC 51-55-0700 Chapter 7—Vegetation management plan.

~~((**User note:** *About this chapter: The purpose of this chapter is to provide criteria for submitting vegetation management plans, specifying their content and establishing a criterion for considering vegetation management as being a fuel modification.*~~

~~**701 General.**~~

~~**701.1 Scope.** Vegetation management plans shall be submitted to the code official where required for review and approval as part of the plans required for a permit.~~

~~**701.2 Plan content.** Vegetation management plans shall describe all actions that will be taken to prevent a fire from being carried toward or away from the building. A vegetation management plan shall include the following information:~~

- ~~1. A copy of the site plan.~~
- ~~2. Methods and timetables for controlling, changing or modifying areas on the property. Elements of the plan shall include removal of slash, snags, vegetation that may grow into overhead electrical lines, other ground fuels, ladder fuels and dead trees, and the thinning of live trees.~~

3. A plan for maintaining the proposed fuel-reduction measures.

~~701.3 Fuel and 6/7/23 modification.~~ To be considered a fuel modification for purposes of this code, continuous maintenance of the clearance is required.)) Reserved.

AMENDATORY SECTION (Amending WSR 23-02-056, 23-12-109, and 23-20-028, filed 1/3/23, 6/7/23, and 9/25/23, effective 3/15/24)

WAC 51-55-0800 Chapter 8—Fire hazard severity form. ((**User note:** ~~About this chapter: The purpose of this chapter is to provide an alternative methodology to using Table 502.1 for analyzing the fire hazard severity of building sites using a preassigned value/scoring system for each feature that impacts the hazard level of a building site. Included in the evaluation are site access, types and management of vegetation, percentage of defensible space on the site, site topography, class of roofing and other construction materials used on the building (existing or to be constructed on the site), fire protection water supply, and whether utilities are installed above or below ground.~~

~~801 Fire hazard severity form.~~ Where adopted, Table 801.1 is permitted to be used as an alternative to Table 502.1 for analyzing the fire hazard severity of building sites.

TABLE 801.1
FIRE HAZARD SEVERITY FORM
~~(No change to the table))~~ Reserved.

AMENDATORY SECTION (Amending WSR 23-02-056, 23-12-109, and 23-20-028, filed 1/3/23, 6/7/23, and 9/25/23, effective 3/15/24)

WAC 51-55-0900 Chapter 9—Fire danger rating system.

((**User note:** ~~About this chapter: The fuel models included in Chapter 9 are only general descriptions because they represent all wildfire fuels from Florida to Alaska and from the East Coast to California.~~

~~The National Fire Danger Rating System (NFDRS) is a set of computer programs and algorithms that allows land management agencies to estimate today's or tomorrow's fire danger for a given rating area. NFDRS characterizes fire danger by evaluating the approximate upper limit of fire behavior in a fire danger rating area during a 24-hour period based on fuels, topography and weather, or what is commonly called the fire triangle. Fire danger ratings are guides for initiating presuppression activities and selecting the appropriate level of initial response to a reported wildfire in lieu of detailed, site- and time-specific information.~~

~~Predicting the potential behavior and effects of wildland fire are essential tasks in fire management. Surface fire behavior and fire effects models and prediction systems are driven in part by fuelbed inputs such as load, bulk density, fuel particle size, heat content and moisture content. To facilitate use in models and systems, fuelbed inputs have been formulated into fuel models. A fuel model is a set of fuelbed inputs needed by a particular fire behavior or fire effects~~

~~model. Different kinds of fuel models are used in fire spread models in a variety of fire behavior modeling systems. The fuel models in this appendix correlate with the light, medium, and heavy fuel definitions found in Chapter 2 of the code.~~

~~901 Fuel models.~~

~~901.1 General. The Fuel Model Key is provided in Table 901.1. Fuel Models are described in Sections 901.1.1 through 901.1.20.~~

TABLE 901.1
FUEL MODEL KEY
 (No change to the table)

- ~~901.1.1 FUEL MODEL A. (No change to the text)~~
- ~~901.1.2 FUEL MODEL B. (No change to the text)~~
- ~~901.1.3 FUEL MODEL C. (No change to the text)~~
- ~~901.1.4 FUEL MODEL D. (No change to the text)~~
- ~~901.1.5 FUEL MODEL E. (No change to the text)~~
- ~~901.1.6 FUEL MODEL F. (No change to the text)~~
- ~~901.1.7 FUEL MODEL G. (No change to the text)~~
- ~~901.1.8 FUEL MODEL H. (No change to the text)~~
- ~~901.1.9 FUEL MODEL I. (No change to the text)~~
- ~~901.1.10 FUEL MODEL J. (No change to the text)~~
- ~~901.1.11 FUEL MODEL K. (No change to the text)~~
- ~~901.1.12 FUEL MODEL L. (No change to the text)~~
- ~~901.1.13 FUEL MODEL N. (No change to the text)~~
- ~~901.1.14 FUEL MODEL O. (No change to the text)~~
- ~~901.1.15 FUEL MODEL P. (No change to the text)~~
- ~~901.1.16 FUEL MODEL Q. (No change to the text)~~
- ~~901.1.17 FUEL MODEL R. (No change to the text)~~
- ~~901.1.18 FUEL MODEL S. (No change to the text)~~
- ~~901.1.19 FUEL MODEL T. (No change to the text)~~
- ~~901.1.20 FUEL MODEL U. (No change to the text))~~) Reserved.

AMENDATORY SECTION (Amending WSR 23-02-056, 23-12-109, and 23-20-028, filed 1/3/23, 6/7/23, and 9/25/23, effective 3/15/24)

WAC 51-55-1000 Chapter 10—Referenced standards.

((**ASTM**

~~**E2632-2020: Standard Test Method for Evaluating the Under-Deck Fire Test Response of Deck Materials**~~

~~501.6))~~) Reserved.

WSR 24-07-062

EMERGENCY RULES

DEPARTMENT OF HEALTH

[Filed March 15, 2024, 1:38 p.m., effective March 15, 2024, 1:38 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amending the definition of mental health professional and creating certified agency affiliated counselor (C-AAC) and licensed agency affiliated counselor (L-AAC) credentials.

Amending WAC 246-341-0200 and 246-341-0515 in chapter 246-341 WAC, Behavioral health agency licensing and certification requirements, and WAC 246-810-010, 246-810-015, and 246-810-990 in chapter 246-810 WAC, Counselors.

2SHB 1724 (chapter 425, Laws of 2023) made several immediate changes impacting behavioral health agencies, including amending the definition of mental health professional (MHP) and creating two new agency affiliated counselor (AAC) credentials. Because 2SHB 1724's amendments to the MHP definition and AAC credentials went into effect immediately and were designated as necessary for the immediate preservation of the public health, safety, or general welfare, the department of health (department) implemented these changes by emergency rule under WSR 23-16-031, filed on July 21, 2023, and continued them under WSR 23-23-136, filed November 17, 2023.

This emergency rule continues without changes the original emergency rule package. The emergency rule:

- Amends chapter 246-341 WAC to address language that conflicts with 2SHB 1724, deleting an outdated definition of MHP requirements and updating an incorrect cross-reference.
- Amends chapter 246-810 WAC to expand existing language to establish two new credentials, C-AAC and L-AAC. The amendments align rule language with statute and revise the registered AAC fees to apply to all AAC types.

The emergency rules will be continued while permanent rule making is in progress under WSR 23-16-044, filed on July 25, 2023, which will create the new AAC credentials, and WSR 23-13-017, filed on June 9, 2023, addressing behavioral health agency regulations as they relate to 23-hour crisis relief centers in Washington state.

Citation of Rules Affected by this Order: Amending WAC 246-341-0200, 246-341-0515, 246-810-010, 246-810-015, and 246-810-990.

Statutory Authority for Adoption: RCW 18.19.050 and 71.24.037.

Other Authority: 2SHB 1724 (chapter 425, Laws of 2023).

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The legislature established in 2SHB 1724, Section 33 that many sections of the bill are "necessary for the immediate preservation of the public peace, health, or support of the state government and its existing public institutions and take effect immediately." Sections 13 through 20, which create the new AAC credentials and amend the definition of MHP, are among the sections that became effective immediately.

Under 2SHB 1724, RCW 71.05.020 was amended to define an MHP as an individual practicing within their credential's scope of practice.

Qualifying credentials include the certified and licensed AAC credential, but not the current AAC registration. Prior to the passage of 2SHB 1724, many MHPs performed assessments and made diagnoses with only a registration. However, after 2SHB 1724 became effective, they were required to obtain an AAC certification, AAC license, or other qualifying credential in order to continue providing these services. Establishing the new AAC credentials immediately by emergency rule and continuing these emergency rules allows MHPs to transition into the new credentials and continue providing essential behavioral health services while permanent rules are in progress.

If the department had waited to make these amendments through standard rule making, MHPs with an AAC registration would be both unable to continue assessing and diagnosing due to the changed MHP definition and unable to obtain a higher AAC credential that would allow them to continue that work. Continuing these emergency rules will allow MHPs who are AACs to continue serving Washington residents with behavioral health needs.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 5, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 5, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 5, Repealed 0.

Date Adopted: March 13, 2024.

Kristin Peterson, JD
Chief of Policy
for Umair A. Shah, MD, MPH
Secretary

OTS-4679.2

AMENDATORY SECTION (Amending WSR 11-22-087, filed 11/1/11, effective 12/2/11)

WAC 246-810-010 Definitions. The definitions in this section apply throughout this chapter unless the content clearly requires otherwise.

(1) "Agency" means:

(a) An agency or facility operated, licensed, or certified by the state of Washington to provide a specific counseling service or services;

(b) A federally recognized Indian tribe located within the state;
or

(c) A county as listed in chapter 36.04 RCW.

(2) "Agency affiliated counselor" means a person registered, certified, or licensed under chapter 18.19 RCW, and this chapter, who is engaged in counseling and employed by an agency listed in WAC 246-810-016 or an agency recognized under WAC 246-810-017 to provide a specific counseling service or services.

(3) "Certified adviser" means a person certified under chapter 18.19 RCW, and this chapter, who is engaged in private practice counseling to the extent authorized in WAC 246-810-021.

(4) "Certified counselor" means a person certified under chapter 18.19 RCW, and this chapter, who is engaged in private practice counseling to the extent authorized in WAC 246-810-0201.

(5) "Client" means an individual who receives or participates in counseling or group counseling.

(6) "Consultation" means the professional assistance and practice guidance that a certified counselor receives from a counseling-related professional credentialed under chapter 18.130 RCW. This may include:

(a) Helping the certified counselor focus on counseling practice objectives;

(b) Refining counseling modalities;

(c) Providing support to progress in difficult or sensitive cases;

(d) Expanding the available decision-making resources; and

(e) Assisting in discovering alternative approaches.

(7) "Counseling" means employing any therapeutic techniques including, but not limited to, social work, mental health counseling, marriage and family therapy, and hypnotherapy, for a fee that offer, assist, or attempt to assist, an individual or individuals in the amelioration or adjustment of mental, emotional, or behavioral problems, and includes therapeutic techniques to achieve sensitivity and awareness of self and others and the development of human potential. For the purpose of this chapter, nothing may be construed to imply that the practice of hypnotherapy is necessarily limited to counseling.

(8) "Counselor" means an individual who engages in the practice of counseling to the public for a fee, including for the purposes of this chapter, agency affiliated counselors, certified counselors, certified advisers, hypnotherapists, and until July 1, 2010, registered counselors.

(9) "Department" means the Washington state department of health.

(10) "Fee" as referred to in RCW 18.19.030 means compensation received by the counselor for counseling services provided, regardless of the source.

(11) "Hypnotherapist" means a person registered under chapter 18.19 RCW, and this chapter, who is practicing hypnosis as a modality.

(12) "Licensed health care practitioner" means a licensed practitioner under the following chapters:

(a) Physician licensed under chapter 18.71 RCW.

(b) Osteopathic physician licensed under chapter 18.57 RCW.

(c) Psychiatric registered nurse practitioner licensed under chapter 18.79 RCW.

(d) Naturopathic physician licensed under chapter 18.36A RCW.

(e) Psychologist licensed under chapter 18.83 RCW.

(f) Independent clinical social worker, marriage and family therapist, or advanced social worker licensed under chapter 18.225 RCW.

(13) "Private practice counseling" means the practice of counseling by a certified counselor or certified adviser as specified in WAC 246-810-0201 or 246-810-021.

(14) "Psychotherapy" means the practice of counseling using diagnosis of mental disorders according to the fourth edition of the *Diagnostic and Statistical Manual of Mental Disorders*, and the development of treatment plans for counseling based on diagnosis of mental disorders in accordance with established practice standards.

(15) "Recognized" means acknowledged or formally accepted by the secretary.

(16) "Recognized agency or facility" means an agency or facility that has requested and been recognized under WAC 246-810-017 to employ agency affiliated counselors to perform a specific counseling service, or services for those purposes only.

(17) "Secretary" means the secretary of the department of health or the secretary's designee.

(18) "Supervision" means the oversight that a counseling-related professional credentialed under chapter 18.130 RCW provides.

(19) "Unprofessional conduct" means the conduct described in RCW 18.130.180.

AMENDATORY SECTION (Amending WSR 20-12-074, filed 6/1/20, effective 7/2/20)

WAC 246-810-015 Agency affiliated counselor: Scope of practice and credentialing requirements.

(1) ~~((An))~~ (a) A registered agency affiliated counselor may only provide counseling services as part of ~~((his or her))~~ their employment ~~((as an agency affiliated counselor))~~ for a recognized agency.

(b) A certified agency affiliated counselor may provide counseling services and may provide provisional mental health assessment and diagnosis services under supervision as required by chapter 18.19 RCW, and as part of their employment for a recognized agency.

(c) A licensed agency affiliated counselor may provide counseling services, independently conduct mental health assessments, and make mental health diagnoses as part of their employment for a recognized agency.

(2) An applicant for ~~((an))~~ any agency affiliated counselor credential must be employed by, or have an offer of employment from, an agency or facility identified in WAC 246-810-016.

(3) (a) An applicant for a certified agency affiliated counselor credential must meet the education and experience requirements of RCW 18.19.090(3).

(b) An applicant for a licensed agency affiliated counselor credential must meet the education and experience requirements of RCW 18.19.090(4).

(4) (a) Applicants must submit an application to the department within the first ~~((thirty))~~ 30 days of employment at an agency in order to continue working while the application is processed.

(b) Applicants must complete any outstanding deficiencies within ~~((ninety))~~ 90 days of the date the department issues a deficiency letter. If the applicant does not satisfy the outstanding licensure requirements within ~~((ninety))~~ 90 days, the applicant must stop working.

AMENDATORY SECTION (Amending WSR 23-07-057, filed 3/9/23, effective 6/1/23)

WAC 246-810-990 Counselors fees and renewal cycle. (1) Under chapter 246-12 WAC, a counselor must renew their credential every year on the practitioner's birthday.

(2) Examination and reexamination fees are the responsibility of the applicant and are paid directly to the testing company.

(3) The following nonrefundable fees will be charged:

Title	Fee
Registered hypnotherapist:	
Application and registration	\$155.00
Renewal	\$80.00
Late renewal penalty	\$75.00
Expired registration reissuance	\$75.00
Duplicate registration	\$10.00
Verification of registration	\$25.00
Certified counselor:	
Application and certification	\$680.00
Examination or reexamination	\$85.00
Renewal	\$800.00
Late renewal penalty	\$300.00
Expired credential reissuance	\$100.00
Duplicate credential	\$10.00
Verification of credential	\$25.00
Certified adviser:	
Application and certification	\$620.00
Examination or reexamination	\$85.00
Renewal	\$745.00
Late renewal penalty	\$300.00
Expired credential reissuance	\$100.00
Duplicate credential	\$10.00
Verification of credential	\$25.00
((Registered)) <u>Agency affiliated counselor:</u>	
Application and ((registration)) <u>credentialing</u>	\$175.00
Renewal	\$185.00
Late renewal penalty	\$95.00
Expired ((registration)) <u>credential</u> reissuance	\$50.00
Duplicate ((registration)) <u>credential</u>	\$10.00
Verification of ((registration)) <u>credential</u>	\$25.00

WSR 24-07-078
EMERGENCY RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Filed March 18, 2024, 1:21 p.m., effective March 18, 2024, 1:21 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: In alignment with ESSB 5293, passed by the Washington state legislature in 2023, the emergency rules exempt school districts and charter schools for the 2024-2025 and 2025-2026 budget periods from accepting binding conditions when the proceeds of an interfund loan have been used to balance deficit fund balances. The rules allow this exemption in order to address budget destabilization in the aftermath of the COVID-19 pandemic, which is consistent with the purpose described under ESSB 5293 (2023) and RCW 28A.505.130.

Citation of Rules Affected by this Order: Amending WAC 392-123-060.

Statutory Authority for Adoption: RCW 28A.150.290, 28A.710.220.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The emergency rules are necessary to allow districts and charter schools to exercise the statutory exemption under ESSB 5293 (2023) and RCW 28A.505.130 from accepting binding conditions when utilizing interfund loan proceeds to address budget destabilization for the 2024-2025 and 2025-2026 budget periods.

The office of superintendent of public instruction will also conduct permanent rule making concerning the exemption from binding conditions.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: March 18, 2024.

Chris P. S. Reykdal
State Superintendent of Public Instruction

OTS-5283.1

AMENDATORY SECTION (Amending WSR 15-18-078, filed 8/28/15, effective 9/28/15)

WAC 392-123-060 Petition to budget receivables collectible in future fiscal periods. When a school district or charter school is unable to prepare a budget or a budget extension in which the estimated revenues for the budgeted fiscal period plus the estimated fund balance or actual fund balance in case of a budget extension, at the beginning of the budgeted fiscal period less the ending reserved fund balance for the budgeted fiscal year do not at least equal the estimated expenditures for the budgeted fiscal period, the school district board of directors or charter school board may deliver a petition in writing at least (~~twenty~~) 20 days before the budget or budget extension is scheduled for adoption to the superintendent of public instruction requesting permission to include receivables collectible in future periods beyond the fiscal period being budgeted in order to balance the budget or budget extension for the fiscal period being budgeted. Said petition shall include a resolution of the school board requesting permission to budget receivables collectible in future fiscal periods and other such information as the superintendent of public instruction shall deem as necessary.

If such permission is granted, it shall be in writing, and it shall contain conditions, binding on the district or charter school, designed to improve the district's or charter school's financial condition.

For the 2024-2025 and 2025-2026 budget periods, accepting binding conditions due to a negative fund balance position is not required for school districts or charter schools that have an interfund loan for more than the amount of the negative position in the receiving fund. This timebound exception is provided in RCW 28A.505.130 so long as the transaction date on the loan occurs on or before June 30, 2024.

WSR 24-07-085
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 24-41—Filed March 19, 2024, 8:26 a.m., effective April 1, 2024]

Effective Date of Rule: April 1, 2024.

Purpose: Closes clam, mussel, and oyster harvest at Kopachuck State Park, a beach that is currently described as open April 1 through May 31 in permanent rules. This action will close the beach to accommodate construction at the park in 2024. Proposed seasons for 2024 have been adopted in permanent rule making but there was insufficient notice of construction to adopt the permanent rule for this change.

Citation of Rules Affected by this Order: Amending WAC 220-330-110 and 220-330-140.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This rule is needed to close recreational clam, mussel, and oyster harvesting opportunities at Kopachuck State Park for the duration of the 2024 season due to major construction in the park that will prevent access to the tidelands and present safety considerations. Permanent rules currently describe seasons as open from April 1 through May 31 at this beach. Proposed seasons for 2024 have been adopted in permanent rule making but there was insufficient notice of construction to adopt the permanent rule for this change.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 2, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: March 18, 2024.

Margen Carlson
for Kelly Susewind
Director

NEW SECTION

WAC 220-330-1000Q Clams other than razor clams, mussels—Areas and seasons. Notwithstanding the provisions of WAC 220-330-110, effective April 1 through May 31, 2024, the following provisions of WAC 220-330-110 regarding Kopachuck State Park clam and mussel seasons shall be as described below. All other provisions not addressed herein, or unless otherwise amended by emergency rule, remain in effect:
Kopachuck State Park: Closed.

NEW SECTION

WAC 220-330-14000N Oysters—Areas and seasons. Notwithstanding the provisions of WAC 220-330-140, effective April 1 through May 31, 2024, the following provisions of WAC 220-330-140 regarding Kopachuck State Park oyster seasons shall be as described below. All other provisions not addressed herein, or unless otherwise amended by emergency rule, remain in effect:
Kopachuck State Park: Closed.

WSR 24-07-093
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 24-42—Filed March 19, 2024, 1:06 p.m., effective March 19, 2024, 1:06 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this emergency rule is to close red sea urchin and green urchin harvest in all areas.

Citation of Rules Affected by this Order: Repealing WAC 220-340-75000G.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This emergency rule closes harvest of red urchin and green urchin in all areas immediately. For red urchin, all the quotas have been reached. For green urchin, there is quota remaining, but harvesters are no longer active due to diminished market quality related to the urchin seasonal peak spawning cycle. Immediate adoption of this rule is necessary for the preservation of the public health, safety, or general welfare. There is insufficient time to adopt permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: March 18, 2024.

Kelly Susewind
Director

REPEALER

The following section of the Washington Administrative Code is repealed, effective immediately:

WAC 220-340-75000G Commercial sea urchin fisheries.
(24-37)

WSR 24-07-100

EMERGENCY RULES

DEPARTMENT OF HEALTH

[Filed March 20, 2024, 10:12 a.m., effective March 20, 2024, 10:12 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amending the definition of mental health professional and creating certified agency affiliated counselor (C-AAC) and licensed agency affiliated counselor (L-AAC) credentials.

Amending WAC 246-341-0200 and 246-341-0515 in chapter 246-341 WAC, Behavioral health agency licensing and certification requirements, and WAC 246-810-010, 246-810-015, and 246-810-990 in chapter 246-810 WAC, Counselors.

2SHB 1724 (chapter 425, Laws of 2023) made several immediate changes impacting behavioral health agencies, including amending the definition of mental health professional (MHP) and creating two new agency affiliated counselor (AAC) credentials. Because 2SHB 1724's amendments to the MHP definition and AAC credentials went into effect immediately and were designated as necessary for the immediate preservation of the public health, safety, or general welfare, the department of health (department) implemented these changes by emergency rule under WSR 23-16-031, filed on July 21, 2023, and continued them under WSR 23-23-136, filed November 17, 2023.

This emergency rule continues without changes the original emergency rule package. The emergency rule:

- Amends chapter 246-341 WAC to address language that conflicts with 2SHB 1724, deleting an outdated definition of MHP requirements and updating an incorrect cross-reference.
- Amends chapter 246-810 WAC to expand existing language to establish two new credentials, C-AAC and L-AAC. The amendments align rule language with statute and revise the registered AAC fees to apply to all AAC types.

The emergency rules will be continued while permanent rule making is in progress under WSR 23-16-044, filed on July 25, 2023, which will create the new AAC credentials, and WSR 23-13-017, filed on June 9, 2023, addressing behavioral health agency regulations as they relate to 23-hour crisis relief centers in Washington state.

Citation of Rules Affected by this Order: Amending WAC 246-341-0200, 246-341-0515, 246-810-010, 246-810-015, and 246-810-990.

Statutory Authority for Adoption: RCW 18.19.050 and 71.24.037.

Other Authority: 2SHB 1724 (chapter 425, Laws of 2023).

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The legislature established in 2SHB 1724, Section 33 that many sections of the bill are "necessary for the immediate preservation of the public peace, health, or support of the state government and its existing public institutions and take effect immediately." Sections 13 through 20, which create the new AAC credentials and amend the definition of MHP, are among the sections that became effective immediately.

Under 2SHB 1724, RCW 71.05.020 was amended to define an MHP as an individual practicing within their credential's scope of practice.

Qualifying credentials include the certified and licensed AAC credential, but not the current AAC registration. Prior to the passage of 2SHB 1724, many MHPs performed assessments and made diagnoses with only a registration. However, after 2SHB 1724 became effective, they were required to obtain an AAC certification, AAC license, or other qualifying credential in order to continue providing these services. Establishing the new AAC credentials immediately by emergency rule and continuing these emergency rules allows MHPs to transition into the new credentials and continue providing essential behavioral health services while permanent rules are in progress.

If the department had waited to make these amendments through standard rule making, MHPs with an AAC registration would be both unable to continue assessing and diagnosing due to the changed MHP definition and unable to obtain a higher AAC credential that would allow them to continue that work. Continuing these emergency rules will allow MHPs who are AACs to continue serving Washington residents with behavioral health needs.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 5, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 5, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 5, Repealed 0.

Date Adopted: March 13, 2024.

Kristin Peterson, JD
Chief of Policy
for Umair A. Shah, MD, MPH
Secretary

OTS-4676.1

AMENDATORY SECTION (Amending WSR 22-24-091, filed 12/6/22, effective 5/1/23)

WAC 246-341-0200 Behavioral health—Definitions. The definitions in this section and RCW 71.05.020, 71.24.025, and 71.34.020 apply throughout this chapter unless the context clearly requires otherwise.

(1) "Administrator" means the designated person responsible for the day-to-day operation of either the licensed behavioral health agency, or certified treatment service, or both.

(2) "Adult" means an individual 18 years of age or older. For purposes of the medicaid program, adult means an individual 21 years of age or older.

(3) "ASAM criteria" means admission, continued service, transfer, and discharge criteria for the treatment of substance use disorders as published by the American Society of Addiction Medicine (ASAM).

(4) "Assessment" means the process of obtaining all pertinent bio-psychosocial information, as identified by the individual, and family and collateral sources, for determining a diagnosis and to plan individualized services and supports.

(5) "Behavioral health" means the prevention, treatment of, and recovery from any or all of the following disorders: Substance use disorders, mental health disorders, co-occurring disorders, or problem gambling and gambling disorders.

(6) "Behavioral health agency," "licensed behavioral health agency," or "agency" means an entity licensed by the department to provide behavioral health services under chapter 71.24, 71.05, or 71.34 RCW.

(7) "Behavioral health service" means the specific service(s) that may be provided under an approved certification.

(8) "Branch site" means a physically separate licensed site, governed by the same parent organization as the main site, where qualified staff provides certified treatment services.

(9) "Campus" means an area where all of the agency's buildings are located on contiguous properties undivided by:

(a) Public streets, not including alleyways used primarily for delivery services or parking; or

(b) Other land that is not owned and maintained by the owners of the property on which the agency is located.

(10) "Care coordination" or "coordination of care" means a process-oriented activity to facilitate ongoing communication and collaboration to meet multiple needs of an individual. Care coordination includes facilitating communication between the family, natural supports, community resources, and involved providers and agencies, organizing, facilitating and participating in team meetings, and providing for continuity of care by creating linkages to and managing transitions between levels of care.

(11) "Certified" or "certification" means the status given by the department that authorizes the agency to provide specific types of behavioral health services included under the certification category.

(12) "Child," "minor," and "youth" mean:

(a) An individual under the age of 18 years; or

(b) An individual age 18 to 21 years who is eligible to receive and who elects to receive an early and periodic screening, diagnostic, and treatment (EPSDT) medicaid service. An individual age 18 to 21 years who receives EPSDT services is not considered a "child" for any other purpose.

(13) "Clinical supervision" means regular and periodic activities performed by a mental health professional, co-occurring disorder specialist, or substance use disorder professional licensed, certified, or registered under Title 18 RCW. Clinical supervision may include review of assessment, diagnostic formulation, individual service plan development, progress toward completion of care, identification of barriers to care, continuation of services, authorization of care, and the direct observation of the delivery of clinical care. In the context of this chapter, clinical supervision is separate from clinical supervision required for purposes of obtaining supervised hours toward fulfilling requirements related to professional licensure under Title 18 RCW.

(14) "Complaint" means an alleged violation of licensing or certification requirements under chapters 71.05, 71.12, 71.24, 71.34 RCW,

and this chapter, which has been authorized by the department for investigation.

(15) "Consent" means agreement given by an individual after being provided with a description of the nature, character, anticipated results of proposed treatments and the recognized serious possible risks, complications, and anticipated benefits, including alternatives and nontreatment, that must be provided in a terminology that the individual can reasonably be expected to understand. Consent can be obtained from an individual's parent or legal representative, when applicable.

(16) "Consultation" means the clinical review and development of recommendations by persons with appropriate knowledge and experience regarding activities or decisions of clinical staff, contracted employees, volunteers, or students.

(17) "Co-occurring disorder" means the coexistence of both a mental health and a substance use disorder. Co-occurring treatment is a unified treatment approach intended to treat both disorders within the context of a primary treatment relationship or treatment setting.

(18) "Cultural competence" or "culturally competent" means the ability to recognize and respond to health-related beliefs and cultural values, disease incidence and prevalence, and treatment efficacy. Examples of culturally competent care include striving to overcome cultural, language, and communications barriers, providing an environment in which individuals from diverse cultural backgrounds feel comfortable discussing their cultural health beliefs and practices in the context of negotiating treatment options, encouraging individuals to express their spiritual beliefs and cultural practices, and being familiar with and respectful of various traditional healing systems and beliefs and, where appropriate, integrating these approaches into treatment plans.

(19) "Deemed" means a status that is given to a licensed behavioral health agency as a result of the agency receiving accreditation by a recognized behavioral health accrediting body which has a current agreement with the department.

(20) "Disability" means a physical or mental impairment that substantially limits one or more major life activities of the individual and the individual:

- (a) Has a record of such an impairment; or
- (b) Is regarded as having such impairment.

(21) "Face-to-face" means either in person or by way of synchronous video conferencing.

(22) "Individual service record" means either a paper, or electronic file, or both that is maintained by the behavioral health agency and contains pertinent behavioral health, medical, and clinical information for each individual served.

(23) "Licensed" or "licensure" means the status given to behavioral health agencies by the department under its authority to license and certify mental health and substance use disorder programs under chapters 71.05, 71.12, 71.34, and 71.24 RCW and its authority to certify problem gambling and gambling disorder treatment programs under RCW 43.70.080(5) and 41.05.750.

(24) "Medical practitioner" means a physician licensed under chapter 18.57 or 18.71 RCW, advance registered nurse practitioner (ARNP) licensed under chapter 18.79 RCW, or physician assistant licensed under chapter 18.71A RCW.

(25) "Mental health disorder" means any organic, mental, or emotional impairment that has substantial adverse effects on a person's cognitive or volitional functions.

(26) "Mental health professional" or "MHP" means a person who meets the (~~qualifications in WAC 246-341-0515 (4)~~) definition in RCW 71.05.020.

(27) "Peer counselor" means the same as defined in WAC 182-538D-0200.

(28) "Peer support" means services provided by peer counselors to individuals under the supervision of a mental health professional or individual appropriately credentialed to provide substance use disorder treatment. Peer support provides scheduled activities that promote recovery, self-advocacy, development of natural supports, and maintenance of community living skills.

(29) "Problem gambling and gambling disorder" means one or more of the following disorders:

(a) "Gambling disorder" means a mental disorder characterized by loss of control over gambling, progression in preoccupation with gambling and in obtaining money to gamble, and continuation of gambling despite adverse consequences;

(b) "Problem gambling" is an earlier stage of gambling disorder that compromises, disrupts, or damages family or personal relationships or vocational pursuits.

(30) "Progress notes" means permanent written or electronic record of services and supports provided to an individual documenting the individual's participation in, and response to, treatment or support services, progress in recovery, and progress toward intended outcomes.

(31) "Secretary" means the secretary of the department of health.

(32) "State minimum standards" means minimum requirements established by rules adopted by the secretary and necessary to implement chapters 71.05, 71.24, and 71.34 RCW for delivery of behavioral health services.

(33) "Substance use disorder professional" or "SUDP" means a person credentialed by the department as a substance use disorder professional (SUDP) under chapter 18.205 RCW.

(34) "Substance use disorder professional trainee" or "SUDPT" means a person credentialed by the department as a substance use disorder professional trainee (SUDPT) under chapter 18.205 RCW.

(35) "Summary suspension" means the immediate suspension of either a facility's license or program-specific certification or both by the department pending administrative proceedings for suspension, revocation, or other actions deemed necessary by the department.

(36) "Supervision" means the regular monitoring of the administrative, clinical, or clerical work performance of a staff member, trainee, student, volunteer, or employee on contract by a person with the authority to give direction and require change.

(37) "Suspend" means termination of a behavioral health agency's license or program specific certification to provide behavioral health treatment program service for a specified period or until specific conditions have been met and the department notifies the agency of the program's reinstatement of license or certification.

AMENDATORY SECTION (Amending WSR 22-24-091, filed 12/6/22, effective 5/1/23)

WAC 246-341-0515 Personnel—Agency staff requirements. Each behavioral health agency must ensure that all of the following staff requirements are met:

(1) All staff providing clinical services are appropriately credentialed for the services they provide, which may include a co-occurring disorder specialist enhancement.

(2) All staff providing clinical services receive clinical supervision.

(3) An agency providing group counseling or group therapy must have a staff ratio of at least one staff member to every 16 individuals during group counseling or therapy sessions.

(4) ~~((A mental health professional is:~~

~~(a) A psychiatrist, psychologist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner (ARNP), psychiatric nurse, or social worker as defined in chapters 71.05 and 71.34 RCW;~~

~~(b) A person who is licensed by the department as a mental health counselor or mental health counselor associate, marriage and family therapist, or marriage and family therapist associate; or~~

~~(c) An agency staff member with a designation given by the department or an attestation by the licensed behavioral health agency that the person meets the following:~~

~~(i) Holds a master's degree or further advanced degree in counseling or one of the social sciences from an accredited college or university who has at least two years of experience in direct treatment of persons with mental illness or emotional disturbance, experience that was gained under the supervision of a mental health professional recognized by the department or attested to by the licensed behavioral health agency;~~

~~(ii) Who meets the waiver criteria of RCW 71.24.260, and the waiver was granted prior to 1986; or~~

~~(iii) Who had an approved waiver to perform the duties of a mental health professional (MHP), that was requested by the behavioral health organization (BHO) and granted by the mental health division prior to July 1, 2001.~~

~~(5))~~ An agency providing problem gambling and gambling disorder treatment services must ensure staffing in accordance with WAC 246-341-1200.

OTS-4679.2

AMENDATORY SECTION (Amending WSR 11-22-087, filed 11/1/11, effective 12/2/11)

WAC 246-810-010 Definitions. The definitions in this section apply throughout this chapter unless the content clearly requires otherwise.

(1) "Agency" means:

(a) An agency or facility operated, licensed, or certified by the state of Washington to provide a specific counseling service or services;

(b) A federally recognized Indian tribe located within the state; or

(c) A county as listed in chapter 36.04 RCW.

(2) "Agency affiliated counselor" means a person registered, certified, or licensed under chapter 18.19 RCW, and this chapter, who is engaged in counseling and employed by an agency listed in WAC 246-810-016 or an agency recognized under WAC 246-810-017 to provide a specific counseling service or services.

(3) "Certified adviser" means a person certified under chapter 18.19 RCW, and this chapter, who is engaged in private practice counseling to the extent authorized in WAC 246-810-021.

(4) "Certified counselor" means a person certified under chapter 18.19 RCW, and this chapter, who is engaged in private practice counseling to the extent authorized in WAC 246-810-0201.

(5) "Client" means an individual who receives or participates in counseling or group counseling.

(6) "Consultation" means the professional assistance and practice guidance that a certified counselor receives from a counseling-related professional credentialed under chapter 18.130 RCW. This may include:

(a) Helping the certified counselor focus on counseling practice objectives;

(b) Refining counseling modalities;

(c) Providing support to progress in difficult or sensitive cases;

(d) Expanding the available decision-making resources; and

(e) Assisting in discovering alternative approaches.

(7) "Counseling" means employing any therapeutic techniques including, but not limited to, social work, mental health counseling, marriage and family therapy, and hypnotherapy, for a fee that offer, assist, or attempt to assist, an individual or individuals in the amelioration or adjustment of mental, emotional, or behavioral problems, and includes therapeutic techniques to achieve sensitivity and awareness of self and others and the development of human potential. For the purpose of this chapter, nothing may be construed to imply that the practice of hypnotherapy is necessarily limited to counseling.

(8) "Counselor" means an individual who engages in the practice of counseling to the public for a fee, including for the purposes of this chapter, agency affiliated counselors, certified counselors, certified advisers, hypnotherapists, and until July 1, 2010, registered counselors.

(9) "Department" means the Washington state department of health.

(10) "Fee" as referred to in RCW 18.19.030 means compensation received by the counselor for counseling services provided, regardless of the source.

(11) "Hypnotherapist" means a person registered under chapter 18.19 RCW, and this chapter, who is practicing hypnosis as a modality.

(12) "Licensed health care practitioner" means a licensed practitioner under the following chapters:

(a) Physician licensed under chapter 18.71 RCW.

(b) Osteopathic physician licensed under chapter 18.57 RCW.

(c) Psychiatric registered nurse practitioner licensed under chapter 18.79 RCW.

(d) Naturopathic physician licensed under chapter 18.36A RCW.

(e) Psychologist licensed under chapter 18.83 RCW.

(f) Independent clinical social worker, marriage and family therapist, or advanced social worker licensed under chapter 18.225 RCW.

(13) "Private practice counseling" means the practice of counseling by a certified counselor or certified adviser as specified in WAC 246-810-0201 or 246-810-021.

(14) "Psychotherapy" means the practice of counseling using diagnosis of mental disorders according to the fourth edition of the *Diagnostic and Statistical Manual of Mental Disorders*, and the development of treatment plans for counseling based on diagnosis of mental disorders in accordance with established practice standards.

(15) "Recognized" means acknowledged or formally accepted by the secretary.

(16) "Recognized agency or facility" means an agency or facility that has requested and been recognized under WAC 246-810-017 to employ agency affiliated counselors to perform a specific counseling service, or services for those purposes only.

(17) "Secretary" means the secretary of the department of health or the secretary's designee.

(18) "Supervision" means the oversight that a counseling-related professional credentialed under chapter 18.130 RCW provides.

(19) "Unprofessional conduct" means the conduct described in RCW 18.130.180.

AMENDATORY SECTION (Amending WSR 20-12-074, filed 6/1/20, effective 7/2/20)

WAC 246-810-015 Agency affiliated counselor: Scope of practice and credentialing requirements.

(1) ~~((An))~~ (a) A registered agency affiliated counselor may only provide counseling services as part of ~~((his or her))~~ their employment ~~((as an agency affiliated counselor))~~ for a recognized agency.

(b) A certified agency affiliated counselor may provide counseling services and may provide provisional mental health assessment and diagnosis services under supervision as required by chapter 18.19 RCW, and as part of their employment for a recognized agency.

(c) A licensed agency affiliated counselor may provide counseling services, independently conduct mental health assessments, and make mental health diagnoses as part of their employment for a recognized agency.

(2) An applicant for ~~((an))~~ any agency affiliated counselor credential must be employed by, or have an offer of employment from, an agency or facility identified in WAC 246-810-016.

(3) (a) An applicant for a certified agency affiliated counselor credential must meet the education and experience requirements of RCW 18.19.090(3).

(b) An applicant for a licensed agency affiliated counselor credential must meet the education and experience requirements of RCW 18.19.090(4).

(4) (a) Applicants must submit an application to the department within the first ~~((thirty))~~ 30 days of employment at an agency in order to continue working while the application is processed.

(b) Applicants must complete any outstanding deficiencies within ~~((ninety))~~ 90 days of the date the department issues a deficiency let-

ter. If the applicant does not satisfy the outstanding licensure requirements within ~~((ninety))~~ 90 days, the applicant must stop working.

AMENDATORY SECTION (Amending WSR 23-07-057, filed 3/9/23, effective 6/1/23)

WAC 246-810-990 Counselors fees and renewal cycle. (1) Under chapter 246-12 WAC, a counselor must renew their credential every year on the practitioner's birthday.

(2) Examination and reexamination fees are the responsibility of the applicant and are paid directly to the testing company.

(3) The following nonrefundable fees will be charged:

Title	Fee
Registered hypnotherapist:	
Application and registration	\$155.00
Renewal	\$80.00
Late renewal penalty	\$75.00
Expired registration reissuance	\$75.00
Duplicate registration	\$10.00
Verification of registration	\$25.00
Certified counselor:	
Application and certification	\$680.00
Examination or reexamination	\$85.00
Renewal	\$800.00
Late renewal penalty	\$300.00
Expired credential reissuance	\$100.00
Duplicate credential	\$10.00
Verification of credential	\$25.00
Certified adviser:	
Application and certification	\$620.00
Examination or reexamination	\$85.00
Renewal	\$745.00
Late renewal penalty	\$300.00
Expired credential reissuance	\$100.00
Duplicate credential	\$10.00
Verification of credential	\$25.00
((Registered)) <u>Agency affiliated counselor:</u>	
Application and ((registration)) <u>credentialing</u>	\$175.00
Renewal	\$185.00
Late renewal penalty	\$95.00
Expired ((registration)) <u>credential</u> reissuance	\$50.00
Duplicate ((registration)) <u>credential</u>	\$10.00
Verification of ((registration)) <u>credential</u>	\$25.00